27066 CPL METUISELA RAILUMU and 7 Ors v COMMANDER, REPUBLIC OF FIJI MILITARY FORCES and 2 Ors

HIGH COURT — CIVIL JURISDICTION

JITOKO J

24 December 2002

[2002] FJHC 92

Criminal law — habeas corpus — application for relief to be released from detention — order for release — trial within reasonable time — constitutional rights — High Court (Constitutional Redress) Rules 1998 rr 3, 3(2) — Constitution ss 27, 28, 28(1)(a).

The Applicants were eight soldiers charged with various offences under the Army Act ranging from mutiny to misprision to treason. They had all been in custody (close arrest) for the last 24 months. Six of the eight had unsuccessfully applied for release under habeas corpus. All eight have been in detention since November 2000. They filed for a motion seeking various declarations on the ground that their Constitutional rights had been violated by their continued incarceration. They also sought an order for their release pending their court martial.

Held — (1) A person remains innocent until proven otherwise. That underlies the whole concept on reasonableness of time before a person is brought before the court to be tried. It is the foundation upon which the protection of the fundamental liberty and human dignity of the person accused by the state of criminal conduct is anchored.

(2) The Applicants' right as detained persons which is protected under the Constitution had been breached. The breach relates to the protection granted to them for release from detention while awaiting trial. Every person who is arrested for a suspected offence has the right to be released from detention on reasonable terms and conditions pending trial, unless the interests of justice otherwise require.

Application granted.

Cases referred to

Filimoni Tikoisuva v State HAM0012/1996; *Grant v Director of Public Prosecutions* (1981) 3 WLR 352; *Martin v Tauranga District Court* [1995] 2 NZLR 419; *Quilter v Attorney-General* (1997) 4 HRNZ 170; *R v Robins* (1884) 1 Cox CC 114; *Republic v Taabare & Or* [1985] LRC (Crim) 8; *Wemhoff v Germany* (1968) 1 EHRR 55, cited.

Heddon v Evans (1919) 35 TLR 642; *State v Peniasi Kata* HAC0009/1994L, considered.

S. Valenitabua S. R. Esq. for the Applicants

Cpt. K. Tuinaosara, Army Legal Services for the 1st Respondent

K. T. Keteca for the 2nd and 3rd Respondents

Dr. S. Shameem Human Rights Commission (amicus curiae)

Judgment

Jitoko J. The Applicants, eight soldiers in all, are charged with various offences under the Army Act ranging from mutiny to misprision to treason. They have all been in custody *(close arrest)* for the last 24 months. Six of the eight had

unsuccessfully applied for release under habeas corpus in May this year. All eight have been in detention since November 2000.

The present application is by motion seeking various declarations in respect of their Constitutional rights that they allege have been breached by their continued incarceration, and order for their release pending their court martial.

This application is made pursuant to the High Court (Constitutional Redress) Rules 1998. Having made known of their intention to rely on the Rules for relief, I invited the Human Rights Commission, to appear as amicus and make submissions.

High Court (Constitutional Redress) Rules

Let me first address the issue whether the Applicants can rely on the Rules for the relief they are seeking. The High Court (Constitutional Redress) Rules and specifically r 3 thereof to which this application relates, allows the High Court to entertain for the purposes of enforcement, applications from person or persons who claims or claim that individual right have been contravened. There is however limitation on the time during which application can be filed which is set out at r 3(2) and reads:

> *(2) an application under paragraph (1) must not be admitted or entertained after 30 days from the date when the matter at issue first arose.*

Obviously, given that the Applicants in these proceedings have only filed their motion on 6 September 2002, some 22 months after the incidents for which they are charged, the obstacle of 30–day limitation, seems insurmountable.

Arguments however have been advanced that raises the issue of the constitutionality of the limitation period of 30 days. According to the proposers of this argument, the 30–days rule is unconstitutional in so far as it infringes the right of the individual to unfretted access to the courts, as provided for under s 29(2) of the Constitution. It states:

> *(2) Every party to a civil dispute has the right to have the matter determined by a Court of law or, if appropriate, by an independent and impartial tribunal*

Counsel for the Applicants referred the court to decisions in other jurisdictions (see *Republic v Taabare & Or* [1985] LRC (Crim) 8; *R v Robins* (1884) 1 Cox CC 114; *Grant v Director of Public Prosecutions* (1981) 3 WLR 352; *Martin v Tauranga District Court* [1995] 2 NZLR 419; *Wemhoff v Germany* (1968) 1 EHRR 55 as well as our own *Filimoni Tikoisuva v State* HAM0012/1996, to support the authority that unreasonable delay due to the prosecution gives rise to injustice. The ability to abide by the 30-day rule therefore may be beyond the control of an Applicant. A much more direct authority on legislative limitation of the exercise of an individual's rights was cited by Proceedings Commissioner of the Human Rights Commission in an earlier similar matter before this court. In *Leach Mokela Mohlomi v Minister of Defence* [1996], a South African case, a 6-month limitation period under the country's Defence Act was struck down by the courts as being incompatible with s 22 of the country's then Interim Constitution. Section 22 was very similar to our own s 29(2).

The rights of the individual as protected under the Constitution's Bill of Rights, including such rights as protected under s 29(2) cannot be whittled down or compromised by the imposition of conditions that may be deemed unreasonable or unjustifiable in a free and democratic society. Statutory provisions such as those found in r 3(2) imposing a 30–day limitation period for

applications to the court to make good any breach of individual right, cannot be allowed to remain, unless valid grounds are advanced to support it.

It is often the base assumptions for the imposition of limitation rules as to time for lodging applications that long delays before a person litigates, are not always in the interests of justice. There is first the issue that the State or authorities be given early warnings and allow time to reply. There are questions of availability of witnesses, fading or failing memories and retention of documentary evidence; all to be considered which give rise to the necessity of limiting the time to litigate. Our very own Limitation Act (Cap 35) finds its objects and reasons among all these factors. At the end, the Rules are intended to prevent procrastination, which, if given way to, will only bring undesirable and harmful consequences to the person, the parties and the community at large.

The question is whether similar considerations should also apply to provisions in the Constitution that have as their objective the protection of rights and freedoms of an individual against interference or intrusion by others and including the state.

In the court's view, the time limitation of 30 days within which to bring an application that is intended to assert any of the basic rights of an individual as recognised by the Bill of Rights in Ch 4 of the Constitution, is neither reasonable nor justifiable. In its effect, it interposes itself between the individual's rights guaranteed by the Constitution and one's ability to exercise it, and in so doing jeopardises the essence of all the rights protected under Ch 4. As the amicus curiae aptly puts it; *"It fetters an Applicant's right of redress"*. The court finds that the 30-day limitation under r 3(2) of the High Court (Constitutional Redress) Rules 1998, unconstitutional and therefore invalid.

However, this is not to say that there cannot be any limitation period whatsoever, governing the application made under s 41 of the Constitution. This court is merely saying that until and unless there are amendments to r 3(2) of the High Court (Constitutional Redress) Rules, that are compatible with the right under s 41 of the Constitution, the court can only deal with each application affecting the issue of limitation period, on the test of reasonableness. Whether the Limitation Act can be used as a yardstick for this purpose, is for the court to decide. As the court stated in *Mohlomi* case:

> *What counts rather, I believe, is the sufficiency or insufficiency, the adequacy or inadequacy, of the room which the limitations leaves open in the beginning for the exercise of the right. For the consistency of the limitation with the right depends on the availability of an initial opportunity to exercise the right that amounts, in all the circumstances characterising the class of case in question, to a real and fair one.*

The court now turns to consider whether the application of the eight soldiers before it, comes under the court (Constitutional Redress) Rules, and whether the period of 22 months that have lapsed from the time the incidents took place are reasonable under all the circumstances.

The Applicants have been in detention from November 2000 to the present. In that time they have been interviewed and charges under the Army Act, before a General Court Martial have been preferred. There being no indication of the convening of the court martial, after continuing detention of 17 months, six of the Applicants applied for a writ of habeas corpus which the court refused. The court was informed during those proceedings, that the court martial will be convened in 2–4 months' time, or at any rate during the course of this year. This obviously has not come about and against the uncertainty of their court appearance and their

continued detention, they have now come by way of motion seeking redress under the High Court (Constitutional Redress) Rules.

While it is true that it has taken some 22 months from the time the incidents occurred to the date of the application under the (Constitutional Redress) Rules, the circumstances has not been solely of their own making. It is most likely that this application may not have come about if the court martial had convened this year, as indicated to the court by the 1st Respondent at the May hearing. It is reasonable to assume that the Applicants had relied on this statement, for a 2002 hearing of their charges, and therefore had not explored other reliefs.

Given the circumstances surrounding this case together with the court's views on the limitation period expressed above, I am of the view, that this application falls within the High Court (Constitutional Redress) Rules.

Having decided in favour of the Applicants, I now turn to the reliefs they are seeking as set out in the motion, to wit:

1. A declaration that the Applicants' respective Constitutional rights to have their cases determined within a reasonable time by a court of law have been breached.
2. A declaration that the Applicants' respective Constitutional rights to be released from detention on reasonable terms and conditions pending trial have been breached.
3. A declaration that the Applicants' respective detentions in prison are now unlawful and/or amount to oppression and that the Applicants should be released pending trial.

Trial within reasonable time

The Applicants base their argument squarely on s 29 of the Constitution and specifically subs (3) which states:

> *(3) Every person charged with an offence and every party to a civil dispute has the right to have the case determined within a reasonable time.*

What constitutes "*a reasonable time*" was extensively canvassed by Townsley J in *State v Peniasi Kata* Lautoka Case No HAC0009/1994L in which His Lordship referred to various decisions of the European Court of Human Rights dealing with the issue. The basic tenet that emerges from all of these cases, is that no person charged or detained should remain too long "*in a state of uncertainty about his fate*".

In addition to that and much more fundamental as far as the Fiji Constitution is concerned, is the doctrine of presumption of innocence. Section 28(1) (a) of the Constitution asserts that:

> *Rights of charged person*
> *28 (1) Every person charged with an offence has the right:*
> *(a) to be presumed innocent until proven guilty according to law; …*

It is the belief that a person remains innocent until proven otherwise that underlies the whole concept on reasonableness of time before a person is brought before the court to be tried. It is the foundation upon which the protection of the fundamental liberty and human dignity of the person accused by the state of criminal conduct is anchored.

There are other factors that must be considered by the court before deciding whether there have been excessive procedural delays in the conduct of the prosecution. Such matters as the complexity of the case, the conduct of the

parties, the volume of evidence and multi-sources of evidence that may require time to collate and assemble them, are all relevant matters to be considered.

In this instance counsel for the defence argues that the Fiji Military Forces had done all it could in an attempt to convene the court martial. However its efforts have been frustrated by inadequate resources. For example, it had tried without success to obtain the services of a High Court judge locally as Judge Advocate, and the present one though local had to be recruited from abroad. In addition, assistance sought from other countries had also been unsuccessful.

The court is invited by the Respondents that, in considering the issue of reasonable time, it should do so in the context of Fiji's status as a developing country with inefficient resources that may in turn impede the efficient performance of some of the functions of the State. But as the court observed in *Peniasi Kata* (above),

> *Neither the workload of the Court nor a shortage of resources, is a sufficient justification for delay in a trial.*

Counsel for the 1st Respondent argued that even if the Applicants succeed in their submission that their detention is unreasonable given the length of time they have been held, that Applicants continuing detention is in accordance with the Manual of Military Law (the Manual), the Queen's Regulations, and the Army Act. Counsel point to His Excellency the President's orders of 15 April 2002 and 15 May 2002 respectively, that purports to hold the Applicants, among others, in "*close arrest*" for periods in excess of 72 days, which the Regulations, under normal arrest situation, would permit. These orders are made by the President as Commander-in-Chief of the military forces, pursuant to the Manual and specifically reg 6.047 of the Queens Regulations for the Army 1975.

Chapter 2 of the Manual deals with "*close arrest*". Paragraph 12 explains that the accused cannot be held for longer than 72 days without the court martial being convened, unless the convening officer has directed in writing that the accused should continue to be held. However, the extension must comply with reg 6047 of the Queens Regulation. It states that a charge must be dealt with at the earlier opportunity. If however, there are delays in bringing the accused to trial after 72 days then reasons must be given.

Whether the Respondents have complied fully with the procedural requirements of the Queen's Regulations in respect of the period of detention beyond the initial 72 days is unclear, but the counsel for the Applicants submits in any case, that Ch 2 para 12 of the Queen's Regulations is ultra vires the Constitution. The court does not agree. It is true that the Constitution is supreme and therefore any law inconsistent with it is invalid. Neither the Manual nor the Queen's Regulations nor any of the provisions cited in these proceedings are ipso facto inconsistent with the Constitution and therefore invalid. To the extent therefore they provide for the efficient administration and discipline of the armed forces they remain valid and properly within the qualifications and/or limitations provided under the Constitution. Where, however, in the exercise of the authority under them, actions flagrantly infringes on the rights of a person as an individual, then the issue of the validity or otherwise of such actions are and can properly be raised.

It is clear to the court that, even if the orders to detain the Applicants may have been in conformity with the Manual and the Queen's Regulations, and would have sustained their continuing arrest beyond the 72 days allowable, the fact that

it is now more than 24 months after the Applicants initial arrests, and detention properly brings the issue into the domain of Ch 4 of the Constitution.

The supremacy of the Constitution under the circumstances is undeniable. The introductory section (s 21) to Ch 4 states:

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s 21 (1) This Chapter binds:

(a) the legislative, executive and judicial branches of government at all levels: central, divisional and local; and

(b) all persons performing the functions of any public office …

There is no question of a member of the military forces not being beneficiary to the same common law or Constitutional rights as those enjoyed by an ordinary citizen of the State. In fact, Ch 1 para 2 of the Manual of Military Law concedes that a soldier does not cease to be a citizen and as such he is imbued with the same civil rights as non-soldiers.

These principles had long been recognised and stated in *Heddon v Evans* (1919) 35 TLR 642 thus:

(i) If the rights which an officer or soldier is seeking to enforce are given to him not by common law but by military law, as in the case of promotion, the remedy is in military law alone.

(ii) If such rights are fundamental common law rights (constitutional) as in liberty, then save in so far as they are taken away by military law, they may be asserted in the ordinary Courts.

The exception to the proviso in (ii) above, obviously lies in the fact that Fiji's Constitution provides additional protection to a soldier apart from the situation at common law.

Amicus also canvassed the scope of the application of s 23(3) of the Constitution if per chance the Applicants were being detained "*pursuant to a measure authorised under a state of emergency.*" While the respondents do not appear to have relied on the extensive powers provided for the authorities under s 23(3), the fact that Ch 14 of the Constitution (*Emergency Powers*) and specifically s 187 (3) thereof, prohibits derogation of rights and freedoms protected under s 27 (the rights of detained persons), would have countered such efforts.

Counsel then referred the court to various international conventions that give effect to universal recognition and practice of the right of redress and or access to independent and impartial tribunal. The Universal Declaration of Human Rights adopted by the General Assembly of the United Nations in December 1948 states at Art 8:

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

The International Covenant on Civil and Political Rights also adopted by the General Assembly of the United Nations in December 1966 states (Art 2(3)) as follows:

3. *Each State Party to the present Covenant undertakes:*

(a) To ensure that any person whose rights or freedoms as herein recognised are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative

authorities, or by giving other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) *To ensure that the competent authorities shall enforce such remedies when granted.*

The fact that Fiji has only ratified the first of the two conventions above, does not diminish our moral obligation at the very least, to conduct ourselves in accordance with principles proclaimed under it. They after all, represent the values and principles that are the underpinnings of a free and democratic society of which this nation claims to be one. It will also be recalled that the Reeves Constitution Review Commission had in their mission statement, undertaken to recommend constitutional arrangements which must, inter alia,

> *… take into account internationally recognised principles and standards of individual and group rights.*

National security

The issue of national security had been raised by the Respondents as justifying the continuation of the "close arrest" of the Applicants. The onus of proving so, squarely rests upon the Respondents.

The affidavits filed by various Army officers, responsible for collating information and charges against the Applicants, as well as from service intelligence, paint a potentially dangerous, if not destabilising situation if the Applicants were to be released into the community. The Applicants were all members of the now disbanded CRW Unit that were responsible for the mutiny at the Barracks and assisted in the Parliament takeover. Also, according to the Respondents, there are still 12 pieces of Army weaponry still missing the location of which, the respondents believe, are known to the Applicants. In support of this the Respondents referred to the fact that one of the Applicants had recently pleaded guilty to a weapon-possession charge in the Magistrates' Court. Also records of weapons used in parliament, show that one of the missing weapons was used by one of the Applicants during the siege.

The Respondents in a supplementary affidavit filed on the day of this hearing, informed the court of events of the last 24 hours when a soldier has been detained for distributing a petition in the name of the "*Fiji Peacekeeping And Action Trustee Association*". The petition, intended for active army personnel, who by signing it have: "*unanimously agreed for the resignation of the Commander of the Republic of Fiji Military Forces on his rejection of the proposed good-will payment to ex-UNIFIL personnel*".

According to the Respondents, the fact that the Applicants are facing charges of trying to overthrow the commander in the unsuccessful mutiny, coupled with the petition content and objective, tends to show that the Applicants will provide additional risk element to those already existing in the community.

Finally, the Respondents point to the fact that so far only 15 of the soldiers have been court-martialled. All have been found guilty and sentences varied from 2 years to life imprisonment. There are 25 (including the Applicants) held at Korovou prison and a further 58 from Labasa and now detained at Togalevu, still awaiting the convening of the court. The political situation is still fragile and, according to the Respondents, the Applicants must remain in "close arrest" to protect it. At any rate, the punishment for mutiny is death or a very long prison term. On balance, the Respondents invite the court to view it, as it was in the habeas corpus hearing of last May, in which Scott J decided that "*the risk to the*

safety, stability and well-being" of the country, far out-weighed, the consideration in favour of the release of six of the present eight Applicants.

In response, the Applicants in the affidavits filed on their behalf, deny that they know the whereabouts of the missing weapons. They do not have any direct links with the "*Fiji Peacekeeping And Action Trustee Association*", although it had written in support of their release, nor were they aware of the petition that was being circulated and referred to in the 1st Respondent's supplementary affidavit of 17 December 2002.

The Applicants submit that they do not pose any threat to the security of the country. They are more interested in rejoining their families from whom they have been separated for more than 2 years while awaiting court appearance. In support of their intention and expression of good behaviour, the Applicants have annexed, letters, statements and testimonies of support from among the communities they live in, and as well as from religious leaders.

The amicus referred the court to "*the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*" (Siracusa Principles). They comprise "*interpretive principles*" that are intended to assist in setting guidelines to "*specific limitation clauses,*" that are normally to be found in national laws that restricts an individual's right or liberty. The *Siracusa* principles are generally considered to reflect the general status of current international law and have been mentioned or referred to in court decisions in other jurisdictions. For example, in New Zealand following Thomas J's reference to the *Siracusa* principles in *Quilter v Attorney-General* (1997) 4 HRNZ 170, there is an acceptance that the principles are relevant as aid to the interpretation of their Bill of Rights.

Paragraphs 29–32 of the *Siracusa* principles deals with "*national security,*" and states as follows:

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> 29. *National security may be involved to justify measures limiting certain rights only when they are taken to protect the existence of the nation or its territorial integrity or political independence against forces or threat of force.*
> 30. *National Security cannot be invoked as a reason for imposing limitations to prevent merely local or relatively isolated threats to law and order.*
> 31. *National security cannot be used as a pretext for imposing vague or arbitrary limitations and may only be invoked when there exist adequate safeguards and effective remedies against abuse.*
> 32. *The systematic violation of human rights undermines true national security and may jeopardise international peace and security. A state responsible for such violation shall not invoke national security as a justification for measures aimed at suppressing opposition to such violation or at perpetrating repressive practices against its population.*

The question for this court is whether the Respondents have tangible existing and sufficient evidence to show and convince the court of a real threat posed to the nation by the release of the Applicants. In the court's view, it is not sufficient to show that the threat is relatively isolated. It is not enough to suppose that there may exist a link between the Applicants and certain "*disquietening*" happenings outside.

In this case, there appears to this court to be a lack of rational connection between the Applicants and incidents outside referred to in the affidavits. There is an unfortunate but perhaps understandable paranoiac fixation given the crises this country has gone through, with threats to the national security, when one is

merely referring to isolated incidents or events. The theories of conspiracies to oust government and other luminaries are abound and provide daily fodder for our equally conspiracy-obsessive media.

The court readily concedes that the 1st Respondent has its own security assessment and intelligence gathering service, which maybe devoid of sentiments expressed above. Nevertheless, in making its own assessment, this court has to be satisfied that the national security of the country will be compromised by the release of the Applicants.

In my humble opinion, the Respondents have not discharged the onus of proving that the limitation placed on the rights of the Applicants, which necessitates their continuing detention is in the national interest or in the interest of national security.

In all the circumstances therefore, the court finds that the continuing detention under "*close arrest*" of the Applicants for over 24 months without being brought to trial is in breach of their constitutional rights.

Release on reasonable terms

The Applicants in addition argue that their right as detained persons which is protected under s 27 of the Constitution, has been breached. The breach relate to the protection granted them for release from detention while awaiting trial. It is covered in s 27 (3)(c) which states:

> *(3) Every person who is arrested for a suspected offence has the right:*
> *(a) to be informed promptly in a language that he or she understands that he or she has the right to refrain from making a statement,*
> *(b) to be brought before a Court not later than 48 hours after the time of arrest or, if that is not reasonably possible, as soon as possible thereafter; and*
> *(c) to be released from detention on reasonable terms and conditions pending trial, unless the interests of justice otherwise require.* (Emphasis is mine.)

A necessary corollary to this right is the presumption of innocence right which is protected under s 28 of the Constitution, and which the court had considered above in relation to the holding of trial within a reasonable time.

Having already decided that the Applicants continuing detention and "*close arrest*" is in breach of their Constitutional rights, the court does not believe it necessary under the circumstances to consider the second issue raised by counsel.

The same applies to the third declaration sought by the Applicants.

Conclusion

The Applicants have been in detention awaiting trial for some 25 months as of today. No country that calls itself civilised, let alone democratic, can possibly allow this situation to continue. It is an intolerable situation. While they have been charged with serious offences against the State, their rights as individuals and citizens of this country cannot be ignored, simply because the system is not able to bring them to trial early; or that there are unsubstantiated reports linking them to further disturbance that has happened recently.

The events of which these individuals are charged remain a scar in the political landscape of this country. Lives were lost, communities divided and our society fractured as a result. There are paths to be mended. But surely the sign of a mature nation lies in its ability to respond to challenges, be they nature or man-made, in a way that preserves the values that bind us all, a country of many races, while maintaining the dignity of the individual as a human person.

It is in attempting to maintain the equilibrium between the sanction necessary due to the seriousness of the offence(s) the Applicants are being charged with on the one hand, and the rights and liberties of the individual on the other hand, that I have decided and hereby order the release of the Appellants with conditions. The conditions of the release are as follows:

(1) That the Applicants will immediately before release, surrender to the police all their passports and other travel documents.
(2) The Applicants will reside continuously at the addresses given at para 18(c) of the affidavit of 2 August 2002. Should there be a change of residence/address due to unavoidable and unforeseen circumstance; the police shall be informed promptly of the change.
(3) During the period of release, the Applicants shall not attend any gathering of any sort, excepting strictly very close family and religious gatherings.
(4) A 12-hour curfew is imposed. This means the Applicants will confine themselves to their homes between the hours of 6 pm and 6 am daily.
(5) The Applicants shall not associate or communicate with each other nor with any other member or ex-member of the Republic of Fiji Military Forces; neither will they attempt to interfere with any witnesses to be called during the trials.
(6) The Applicants will under no condition, visit the army headquarters and/or any army barracks or military installation, except as provided for elsewhere in this judgment.
(7) The Applicants will report, once a day before curfew, to the following Police stations/posts
   (i) Nabua Police Station: Cpl Metuisela Railumu
   Pvte Jona Nawaqa
   (ii) Valelevu Police Station: Cpl Alikisio Alaava
   L Cpl Barbados Mills
   Pvte Pauliasi Namulo
   Pvte Peniame Sokiveta
   (iii) Raiwaqa Police Station: Cpl Isireli Cakau
   (iv) Nausori Police Station: Pvte Filimoni Raivalu

On the morning of the convening of your General Court Martial the Applicants are to surrender themselves once more to the authorities by reporting to the Commanding Officer (CO) of the Army Training Group's Camp (ATG) at Nasinu at 8 am of that particular morning, and thereafter they will be brought before the GCM which will, among other things, decide the continuation or otherwise of release including if appropriate, any additional conditions, it may care to impose.

A breach of any of the conditions that I have set out by any one of the Applicants will automatically mean the forfeiture of the conditions in respect of the Applicant concerned who will, upon proof of such breach before this court, immediately order arrest and detention until the trial.

The cost is summarily assessed at $350, which I award against the Respondents.

Application granted.