



IN THE NAURU COURT OF APPEAL

AT YAREN

CRIMINAL JURISDICTION

Criminal Appeal No.1 of 2020

BETWEEN: **Director of Public Prosecutor**
Appellant

AND: **Mikala Teokila**
Respondent

BEFORE: **Chief Justice F. Jitoko**

APPEARANCES:

Counsel for the Appellant: **S. Serukai – For DPP**
Counsel for the Respondent: **R. Tagivakatini - PLD**

Date of Hearing: 24th August, 2020

Date of Ruling: 24th August, 2020

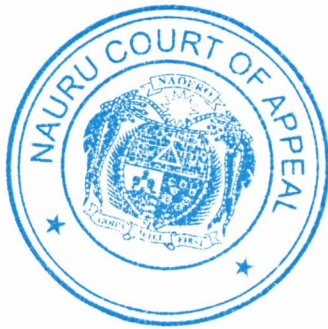
Case may be cited as: *-DPP v Mikala Teokila*

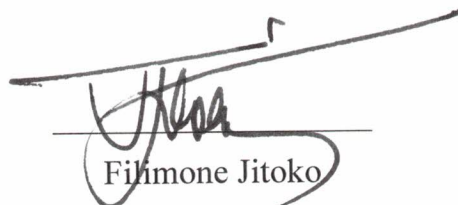
RULING -
(EX-TEMPORE)

1. This is a summons on the application by the prosecution seeking the enlargement of time to appeal the Rulings of Khan J made on 2 December 2019 and 14 February 2020 respectively. The affidavit by the Director of Public Prosecutions

in support, as well as the affidavit opposing by the Public Legal Defender, had duly been filed outlining the parties' arguments.

2. There is no arguments and the Court concedes, that the Director of Public Prosecutions has untrammelled powers under section 46 of the Criminal Procedure Act 1972, to enter *nolle prosequi* at any stage in any criminal cause or matter. It is not in issues, but it is the circumstances that surround the exercise of the discretion that which might attract the Court's exercise of its inherent power to intervene.
3. The most important issue that was central in the Supreme Courts consideration in deciding whether, to refuse to accept the prosecutions application to enter a *nolle prosequi* in this case, was whether, given all the facts including the circumstances of the case, the entry of the *nolle prosequi* would have amounted to an abuse of the process.
4. This Court has carefully read Khan J's Rulings. It is satisfied that His Honour had carefully considered all the facts of the case as well as the statute and case law, and had arrived at the correct conclusions.
5. As to the reasons given for the enlargement of time for appeal, when weighed against the merit of the grounds of appeal, the Court considers that they do not constitute exceptional circumstances.
6. Leave to appeal out of time is refused.




Filimone Jitoko
Chief Justice

President Court of Appeal