



SUPREME COURT OF NAURU

CRIMINAL JURISDICTION

Criminal Case No. 12 of 2017

BETWEEN : THE REPUBLIC

AND: MATTHEW BATSIUA
SQUIRE JEREMIAH
PISON BOP
RENACK MAU
PIROY MAY
MEREIYA HALSTEAD
DANIEL JEREMIAH
BUREKA KAKIOUEA
HESTAKAI FOLIATE
DABUB JEREMIAH
MESHACK AKUBOR
LENA PORTE
JORAM JORAM
RUTHERFORD JEREMIAH
JACKI KANTH

APPEARANCES

For the Prosecution: R.Talasasa - Director of Public Prosecutions
For the Defendants: V.Clodumar – On instructions
Public Legal Defender: S.Valenitabua

The court after hearing the Director of Public Prosecutions, Ronald Bei Talasasa Jr and Vinci Clodumar on instructions from Christopher Hearn, instructing Solicitor for the Defendants, makes the following;

ORDER

That the defendants are prohibited from leaving the country of Nauru during the period of the hearing of this case with effect from 25 October, 2019, unless otherwise ordered by the court.

Dated this 25th day of October, 2019


Filimone Jitoko
Chief Justice





IN THE SUPREME COURT OF NAURU

AT YAREN

BETWEEN : THE REPUBLIC

AND: MATTHEW BATSIUA AND Others

APPEARANCES

For the Prosecution: R.Talasasa - Director of Public Prosecutions

For the Defendants: V.Clodumar – On instructions

Public Legal Defender: S.Valenitabua

SUMMARY OF PROCEEDINGS 26 JULY -22 OCTOBER 2019 AND FINAL DIRECTIONS

The decision of Court of Appeal was handed down on 21 June 2019 setting aside Muecke J's Orders of 21 June and 18 September, 2018 respectively.

Matter was then remitted to this Court for further directions.

On 26 July 2019 matter came before me for further directions. Given that the records of the case are complete, **the only outstanding issue was the legal representation through, if necessary, the legal aid provided by the Office of the Public Legal Defender.**

However, on the same day, 26 July, Vinci Clodunar, appearing on instructions ^{for} of the defendants, informed the court that the defendants have written submissions to file into court to support their motion that the matter or case be listed before Muecke J, who had presided over the case previously. I informed parties given that Muecke J's commission had been terminated by the Government, that it would be futile for motion seeking the matter to be listed before him. It was not possible and in any case, the matter was before

me. This is clearly set out in the Directions and Orders this Court issued on 26 July, including inter alia, the directions, that all the defendants that require legal aid are to make their application to the Office of Public Legal Defender within the next 7 days. The case was re-listed 14 days thereafter and came before this court on 9 August, 2019.

On the 9 August mention, Mr Clodumar informed the Court that the defendants had seen and informed the Public Legal Defender that they wish to be legally represented under the legal aid but they preferred to be represented by their Australian Counsel through Hearn, the instructing Solicitor. The Public Legal Defender appeared and confirmed the understanding. The Court informed the Public Legal Defender and the defendants to complete the legal aid arrangements pursuant to the provisions of the legislation and that the case will be adjourned for further 14 days for the process to be complete.

On the same day 9 August, 2019 Mr Clodumar informed the court that his instruction is that the Australian Counsel were intending to file a further application for permanent stay of the proceedings. The Director of Public Prosecution reminded the court that the issue of permanent stay had already been dealt with by the Court of Appeal in its 21 June 2019 decisions stressing the importance and urgency of the case to be set down for hearing as soon as possible and that any delay, including a further application of stay will only serve to undermine the cause of justice.

Given that the arrangements of legal aid remained to be resolved, the case was adjourned to 23 August, 2019 for further directions.

On 23 August, Mr Clodumar was able to confirm that all the defendants have filed their applications for legal aid and the Public Legal Defender advised that he needed another 14 days to assess and decide on the applications before him.

The Court confirmed that the trial date of 28 October will remain and there will be no derogation from that date and all other arrangements have to be completed before the 28 October.

The Court then set the final mention date to yesterday 21 October, although the Registrar called the matter last week just to update the Court on the progress on legal representation.

(22 Oct)
Today's proceedings show that the office of the Public Legal Defender has done all it can to fulfil its legal obligations under the law. All the defendants, have been informed, except Mr Squire Jeremiah, of the availability of legal aid to them and the office's consent to brief out to outside counsel.

Given the Court's understanding that the legal representation for the time being, of all the defendants will be co-ordinated through Christopher Hearn, Solicitors, the outstanding issue of legal aid that is available to the defendants, is now resolved.

The order for Agreed Facts will now be pursued by the Director of Public Prosecutions in consultation with the defendants' instructing solicitor, Mr Christopher Hearn, and filed into court before the hearing date.

There remains finally, the matter of the defendants' Notice of Motion for a permanent stay that was filed into Court yesterday afternoon. I emphasised to the defendant's Counsel that the intention to file such application was made known to the Court back in 9 August, 2019, yet it was only yesterday that the application was finally filed. No doubt this will delay the trial proper even further.

ORDERS

Pursuant to the understanding that all interlocutory matters arising will be heard at the beginning of the trial, the Court makes the following Orders:

1. The Director of Public Prosecutions has until Thursday 24th October, 2019 to file its affidavits in reply, to the defendants' affidavit in support of their Notice of Motion.
2. The defendants have until Friday 25th October to file their response, if necessary.
3. Submissions by the Director of Public Prosecution in response to the defendant's submissions maybe made orally at the hearing.

Dated this 22nd day of October, 2019


Filimone Jitoko
Chief Justice

