

**REGINA ~V~ RAY KEPANI**

**High Court of Solomon Islands  
(Palmer ACJ)**

**Criminal Case No. 138 of 2000**

**Hearing: May 7, 2002**

**Ruling: May 7, 2002**

*F. Mwanasalua (Director of Public Prosecutions) for the Crown  
Defendant (Ray Kepani) in person*

**Palmer ACJ:** The Defendant appears in court today and has been doing so faithfully, which I commend him for, but again he comes up with the same excuse he has been putting to this court in previous appearances, that the case today should not proceed because he does not have a lawyer to represent him in court. He has been raising this since 12<sup>th</sup> September 2001 (8 months ago). But that was not his first time to appear in court. The first appearance before this court was on 2<sup>nd</sup> October 2000. He then had a lawyer representing him.

On 12<sup>th</sup> September 2001 he told the Registrar of High Court he had no lawyer. The Registrar of High Court ("RHC") graciously allowed him time (approximately two months) to instruct a lawyer. The trial was then fixed for 5-6 November 2001.

On 5<sup>th</sup> November 2001, this Accused appeared without legal representation and again asked for an adjournment so that he could be represented. He indicated to the court that he wanted to have a lawyer representing him. Court again listened to his plea for adjournment and allowed case to be adjourned further.

Case came before the RHC again on 6<sup>th</sup> February 2002 and the same excuse was given, "*me no garem lawyer, me must garem lawyer for representim me long court, because this one hem serious case tumas*". Of-course the case was serious, the Accused knows that and so it is incumbent on him, he has duty to do all he can to get legal representation. The RHC again bent over backwards to allow the rights of this Accused to instruct a lawyer to be exercised.

Section 10.(2) of the Constitution says and I quote:

"Every person who is charged with a criminal offence –

(a) (not relevant)

- (b) (not relevant)
- (c) shall be given adequate time and facilities for the preparation of his defence;
- (d) shall be permitted to defend himself before the court in person or, at his own expense, by a legal representative of his own choice;

....

Sub-paragraph 10(2)(c) says that he shall be given adequate time and facilities for the preparation of his defence. Has that been done in this case? The answer is a clear yes. In fact more than enough time (8 months in total) has been given.

Sub-paragraph 10(2)(d) says that he shall be permitted to defend himself before the court in person or at his own expense by a legal representative of his own choice. Has he been permitted to defend himself at his own expense or having a lawyer to represent him in court? Again the answer is a clear cut yes. Court has bent over backwards to permit and allow this accused to defend himself.

He says that the lawyer he saw at the Public Solicitor's Office did not give him satisfactory advice. That is a matter for him to decide. If he rejects his lawyers advice that is his right. But that is not an excuse to say that this court should thereby allow him more time to seek a lawyer to represent him. He has not shown to this court good cause, good reason why the case should be further adjourned. His excuse can no longer hold water. He has not shown that he has taken active steps to instruct any other lawyer. This is his case, it is a serious case and the onus is on him to ensure that he looks for a lawyer. It is not the courts job. All that is required of the court is to ensure that he is permitted to defend himself and to instruct a lawyer if he so desires. The Court has discharged its duty to him. I am not satisfied the matter should be adjourned further. That would be an abuse of the court's process and would not be in the interests of the due administration of justice as prescribed by law.

Adjournment declined. I order that the case is to proceed.

**THE COURT.**