

**HIGH COURT OF SOLOMON ISLANDS****REGINA -V- JOSEPH NONEKE AND LIVAE MEQO****Criminal Case No. 06704****Honiara: Brown PJ****Date of Hearing: 4 March 2005****Date of Judgment: 4 March 2005****M. McColm for the Crown****Patrick Lavery for the accused****Notice of Motion for change of Venue by the Crown**

Motion opposed

**Reasons for Decision**

**Brown J:** I am not minded to listen to Mr. Lavery when he wants to illustrate the public policy issue of trials involving residents of Manchester in that area of England, for instance with the consequential need to place this trial at Gizo. The circumstances of the Solomon Islands are quite different, although if we were to look at the IRA terrorist trials conducted in England in the 70's and 80's, one can clearly see that logistical security was a principal consideration; choice of venue was supported by the fact of a developed infrastructure including proper courts about that country.

In the Solomon Islands, the Court facilities outside of Honiara, let alone the jail are nothing short of abysmal. My experience has been as recent as February 2005 when the lights in the court at Gizo didn't work, the noise of the rain on the roof drowned out counsel's voices, the fans were problematical, there was neither running water nor toilet facilities and the access to the court in wet weather was through mud and running drainage water. There is no secure dock, there are no holding cells and the provision of transport is dependent not on the prison officers but availability of police vehicles.

The jail at Gizo is overcrowded, it cannot in any real sense be said to be secure. I say this from my own observations. Why the judiciary should be expected to accept such substandard court facilities when the Provincial Government expects, as Mr. Lavery implies, the continued circuiting of the High Court for public policy reasons, is beyond belief. If defence counsel seriously expects the High Court to sit in such substandard condition, on the strength of public policy, ignoring security, not just of the accused, but importantly witnesses and the Court party, then I'm afraid Mr. Lavery misunderstands the status that this Court has in the community, a status that is at last becoming reflected and recognized by the money spent on refurbishing and rebuilding the Honiara High Court complex.

If the Gizo Court House has no proper facilities to reasonably accommodate counsel, staff and judges in a working environment, when Honiara does, to suggest public policy calls for the Court to demean itself in this fashion ignores, to my mind, the greater public need to see a court sit in surroundings commensurate with its status. Gizo, in this case of a tension trial is inadequate. There may be a real risk to witnesses for PPF officers will not be able to adequately manage a trial there, involving the number of accused and witnesses.

Public policy can be served by the obvious use of the media, which has, as Mr. McColm pointed out, been vigilant in its reporting of the notorious Keke trial. In any event passage from Noro to Gizo by ferry is available, surely but so is passage to Honiara by regular ferry ships. The offences are alleged to have taken place at Noro.

Clearly the capacity to conduct the trial in surroundings reflecting the status and importance of the criminal trial process is exhibited in Honiara. The trial court facilities and support-staff are here.

It is also of particular importance to acknowledge that the PPF Protective Services charged with the care and custody of prisoners involved in tension trials will be divided, were the Gizo trial to proceed when scheduled, whilst tension trials are being conducted in Honiara. This is a material consideration, otherwise that responsibility incumbent on the PPF Protective Service to properly carry out its function, would be undermined by this Court. In balancing up this supposed conflict of Public Policy, logistical difficulties on the motion to move the venue to Honiara, I am satisfied that the public interest in the proper administration of justice is best served by the move of venue to Honiara. Certainly the accused are here, counsel practice here and there is no real difficulty in transporting witnesses to Honiara as I have said.

I direct that the venue for the trial be Honiara.

**BY THE COURT**