

**BETWEEN:** Public Prosecutor  
Applicant

**AND:** Kenneth Kalo  
Defendants

By: Justice Dudley Aru  
Counsel: Mr. C. Shem for the Public Prosecutor  
Mrs P. Malites for the Respondent  
Date of Decision: 10<sup>th</sup> June 2022

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**JUDGMENT**

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1. This is an appeal by the Public Prosecutor against a decision of the Magistrate Court on 12 November 2021 dismissing the charges against the defendant.
2. The defendant was charged threats to kill, domestic violence and intentional assault. The charges were dismissed on the basis that the defendant was not tried within a reasonable time due to delays by the Public Prosecutor .
3. The appeal was pursued on a number of grounds namely that :
  - The Senior Magistrate did not have all the relevant information before him before deciding to dismiss the case;
  - Lack of procedural fairness; and
  - Insufficient weight was given to the public interest in continuing the prosecution;
4. The respondent concedes the appeal.

**Result**

5. Given the respondents concessions filed on 7 June 2022, the appeal is allowed. The charges are re-instated accordingly and the matter is to be returned to the Magistrate Court to proceed with the PI hearing.

Dated at Port Vila on the 10th day of June 2022  
BY THE COURT

Justice D. Aru

