



## HIGH COURT OF KIRIBATI

*Criminal Case No 26/2018*

**THE REPUBLIC**

**v**

**EREATEITI TEMATE**

*Pauline Beiatau, Director of Public Prosecutions for the Republic  
Reiati Temaua for the accused*

### **FILE NOTE**

- [1] By information filed on 22 May 2018, the accused was charged with 1 count of dangerous driving causing death, contrary to section 31(1) of the *Traffic Act* 2002.
- [2] That information did not comply with section 70 of the *Criminal Procedure Code*, and a further information was filed by the Attorney-General on 25 October 2018, reducing the charge to one of careless driving causing death, contrary to section 33(1) of the *Traffic Act*.
- [3] The accused entered a plea of not guilty, and the trial commenced on 13 March 2019. Two witnesses were called, following which an adjournment was granted until this morning to await arrival of the final prosecution witness from Marakei. When the matter was called on this morning, counsel for the Republic stated in court the Attorney-General's desire to enter a *nolle prosequi* under section 68(1) of the *Criminal Procedure Code*.
- [4] Counsel for the accused opposed the *nolle prosequi*, but was unable to provide any authority for his proposition that I should not accept it, and instead acquit the accused. On its face, section 68(1) does not envisage a situation where the court could refuse to accept entry of a *nolle prosequi*.
- [5] The accused is accordingly discharged.
- [6] This file is to be closed.

Dated 14 March 2019.

  
**Lambourne J**

Judge of the High Court

