

In the District Court of Nauru Criminal Case No. 30 of 2015

Criminal Jurisdiction

Republic

v

Chen Jian Ping

Date of hearing: 16 March 2016

Date of ruling: 16 March 2016

Mr. Sovau for the Republic

Mr. Vinci Clodumar for the defendant

Ruling

1. Mr. Clodumar has taken an issue in relation to the admissibility of the audio recording of the interview between Mr. Richard Martin Brennan, Mr. Asterio Appi and the defendant conducted at the customs office on the 14 October 2015. The grounds for the objection of the audio recording are that the defendant has not been cautioned nor has he been given his right to be represented by counsel at the interview and that the interview was conducted in Nauruan broken English pidgin to the defendant. The prosecution has submitted the provisions of section 5 of the Cyber Crime Act in support of their submission that the audio tape be tendered.
2. The witness Mr. Brennan is the person responsible for the production of the audio tape. The fact that the audio tape was produced and the interview with the defendant recorded is not disputed.
3. There is no obligation to comply with the judges rules when conducting an investigation to determine whether or not a person is a suspect. There is also no right to legal representation during the investigation stage. The fact that an audio recording was made of the conversation

between the defendant, Mr. Appi and Mr. Brendan shows transparency on the part of the customs officers. It is for the court to determine the probative value of the weight to be given to the evidence as contained in the record of the interview.

Dated this 16 day of March 2016



Emma Garo
Resident Magistrate

