



**SUPREME COURT OF NAURU**

AT YAREN                      MISCELLANEOUS CAUSE Case No.80 of 2016

SPRENT DABWIDO                      DEFENDANT/APPLICANT

AND

THE REPUBLIC                                      DIRECTOR OF PUBLIC PROSECUTION

Before:                                      Khan J  
Date of Hearing:                              26 August 2016  
Date of Ruling:                              26 August 2016

Case maybe cited as:                      DABWIDO v THE REPUBLIC

**CATCHWORDS:** Application for variation of bail – Bail granted – Defendant consented to the District Court trial to proceed in his absence – Pursuant to Section 155(1) of Criminal Procedure Act 1972 – Article 10(3) of the Constitution should he not honour his bail condition.

**APPEARANCES:**


For the Applicant:                      Mr V Clodumar (Pleader)  
For the Republic:                      Mr. D Toganivalu (DPP)

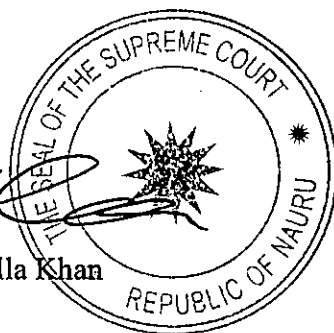
## RULING

1. I gave a ruling in this matter on 23 August 2016 in which the defendant had made an application for variation of bail and I adjourned the matter until today to await the arrival of Mr. Toganivalu (DPP) who was handling this matter.
2. After the adjournment on 23 August 2016, the defendant filed a clinical note instead of a medical report as ordered from Dr. Patrick Timeon wherein, amongst other things, it is stated that the defendant "needs overseas referral".
3. When this matter was called this morning, the DPP conceded that he was not disputing Dr. Timeon's findings and he agreed that the defendant needed overseas treatment for his heart condition.
4. I then had the matter stood down and invited both counsel to agree on other conditions including suitable sureties.
5. When the matter resumed this afternoon, Mr. Clodumar gave names of three sureties namely, Krent Dabwido to be the surety in the sum of \$2,000 in his own recognizance, Mr. Donovan Dabwido in the sum of \$1,500 in his own recognizance and Mr. Starrion Akken in the sum of \$1,500 in his own recognizance.
6. I examined each of the sureties and I am satisfied that each of them have the means and abilities to pay their respective amount of recognizance should they be called up to do so.
7. Mr. Clodumar also provided a signed copy of a consent pursuant to Section 155(1) of the Criminal Procedure Act 1972 (CPA) and Article 10(3) of the Constitution wherein the defendant has consented to the commencement of the District Court trial should he not return to Nauru in time. I explained the contents of this document to the defendant and he stated that he understood the contents thereof and also realized the consequences of his failure to attend court. In the circumstances, I order that should the defendant not return to Nauru by the 29 September 2016, and then the District Court is at liberty to proceed with his criminal trial no. 21,22,23 and 25 of 2015 as he has waived his rights under Section 155(1) of CPA 1972 and Article 10(3) of the Constitution.
8. The defendant's bail is varied as follows:
  - a) He is to enter into bail in his own recognizance in the sum of \$5,000;
  - b) He is to provide sureties as outlined above in the sum of \$5,000;

- c) The defendant is granted leave to depart Nauru and go to Brisbane for medical treatment. He is not to go to any other country other than Australia;
- d) That his passport shall be released to him;
- e) That he shall depart Nauru on 28 August 2016 and is to return on 29 September 2016.

DATED this 26 day of August 2016.

  
Mohammed Shafiulla Khan  
Judge

The seal of the Supreme Court of the Republic of Nauru is circular. It features a central star with multiple points. The text "THE SEAL OF THE SUPREME COURT" is written along the top inner edge, and "REPUBLIC OF NAURU" is written along the bottom inner edge. There is a small star symbol on the right side of the inner circle.