

IN THE SUPREME COURT OF NAURU

Civil Action No. 10/2003

HABEAS CORPUS Application.
Complaint under Article 5 (4) of the Constitution

BETWEEN:	ABBAS AL SAYED MAHDI	1 ST APPLICANT
	MOHAMMED SAGAR	2 ND APPLICANT
	WORSAN AL ASADI	3 RD APPLICANT
AND	DIRECTOR OF POLICE ((thru Secretary For Justice as Director of Public Prosecutions)	1 ST RESPONDENT
	STEVE HAMILTON, Manager, IOM	2 ND RESPONDENT
	OFFICER IN CHARGE, Australian Protective Services	3 RD RESPONDENT

R. Kun and R. Kaierua for Applicants.
Secretary for Justice with W. Togomae for 1st Respondent
Paul Aingimea for 2nd Respondent
Dr. Stephen Lee for 3rd Respondent

DECISION

I have considered the affidavits and submissions placed before me by both the Applicants and the three Respondents.

1. I am of the clear view that the habeas corpus application on behalf of each Applicant to make absolute the rule nisi must fail. I therefore discharge the order nisi granted on 16 May 2003 with respect to each Respondent.
2. Further, I am of the same view that the complaint made by each of the applicants under Article 5 paragraph 4 of the Constitution should be dismissed with respect to each Respondent.
3. I shall deliver written reasons for denying the applications and dismissing the complaints in due course, and if I am not on Nauru at the time I will instruct the Registrar to deliver those reasons in open Court.

4. There will be no order as to costs. In coming to that conclusion, I adopt the final words contained in the postscript to French J's judgment in Ruddock v Vadarlis (2001) 110 FCR 491 at 549 – 'The Counsel and solicitors acting in the interests of the rescuees in this case have evidently done so pro bono. They have acted according to the highest ideals of the law. They have sought to give voices to those who are perforce voiceless, and, on their behalf, to hold the Executive accountable for the lawfulness of its actions. In so doing, even if ultimately unsuccessful in the litigation they have served the rule of law and so the whole community.'

I am unsure whether the Pleders for the Applicants were acting pro bono but the gist of the words of French J. are apposite here. I am fortified in this view because the ventilation of these important applications have brought forth information on arrangements that have exercised the minds of many on Nauru which had been previously shrouded simply by rumour. They have served to clear the air. I thank all counsel for their submissions.

The Court will adjourn.


BARRY CONNELL
CHIEF JUSTICE

