

BETWEEN

**Junior Dowiyogo**

Plaintiff

AND

**Secretary for Justice  
Paul Aingimea**

First Defendant  
Second Defendant

**Date:** 18 July 2003

Chambers application for interlocutory application for declaration

For Plaintiff: **Mr. Pres Nimes**  
For First and Second Defendant: **Mr. W. Togamae**

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## ORDER

1. I refuse the application for interim relief.
2. Speedy trial ordered which is to proceed by written submissions of the parties as the issues are primarily and centrally legal.
3. Submissions will be filed with the Registrar in accordance with the following timetable -
  - i. Submissions of the Plaintiff to be delivered to the Registrar and the Defendants by or on Friday 25 July 2003.
  - ii. Submissions of Defendants to be delivered to the Registrar and the Plaintiff by or on Thursday 31 July 2003.
  - iii. Plaintiff may exercise his right of a reply submission and that should be submitted to the Registrar and the Defendants by or on Tuesday 5 August 2003.
4. Following the closing of the process of submissions, the court will make a decision unless, in the Court's opinion, further matters need to be ventilated either by written submission or oral court hearing.

### Issues

To assist the parties, certain matters were canvassed at the chambers application. These are listed below but are not meant to be exhaustive and parties may introduce other relevant legal issues as each party sees fit.

Specify in detail,

- A. **Plaintiff**
- what action was taken and by whom against the Plaintiff.
  - Who appointed Plaintiff as Director and when?
  - What, under the Nauru Police Force Act 1972 ('the Act'), was his tenure of office?
  - Could that tenure be limited by any action of the Chief Secretary, the Minister, the Cabinet, himself?
  - How could that be achieved?

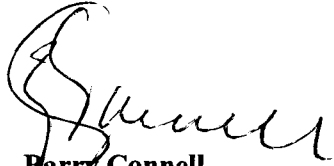
- Could he be replaced or demoted by any action other than under Section 35 of the Act?
- What are the effects, if any, of the Constitutional provisions, particularly Articles 68, 69?

B. **First Defendant**

- Has the Minister or Cabinet any power of removal of a Director other than through Section 9 of the Act?
- Other than Section 9, is the Chief Secretary the only person who may take action against a Director on disciplinary grounds?

C. **Second Defendant**

- What powers were possessed by the Chief Secretary to appoint the Second Defendant?
- Could such powers be exercised without action taken to remove the incumbent Director?



**Barry Connell**  
**CHIEF JUSTICE**