

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**
(Civil Jurisdiction)

Judicial Review Case No. 16/3430 SC/JUDR

BETWEEN: ALBERT NALPINI
Applicant

AND: THE POLICE SERVICE COMMISSION
First Respondent

AND: PRESIDENT OF THE REPUBLIC OF VANUATU
Second Respondent

Hearing: February 2nd 2017

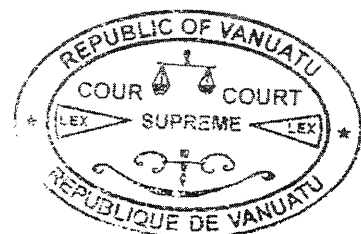
Before: Justice JP Geoghegan

Appearances: Mr L Napuati for the Claimant

~~Ms A Bani (SLO) for the First and Second Respondents~~

JUDGMENT

1. At the opening of this trial Mr Napuati raised as a preliminary issue a list of objections which he had filed on February 1st 2016. In a nutshell Mr Napuati opposes the sworn statements of Mr Willie Vira, Mr Bethuel Solomon and the Honourable Minister Alfred Moa which were filed on January 19th 2017 on behalf of the Respondents. The statements were filed four days after the time which had been directed by me at an earlier conference.
2. Mr Napuati opposes the statements on the basis of rule 11.6 (b) of the Civil Procedure Rules which require that any statements to be used during trial be filed and served at least 21 days before trial in this case they were filed 18 days before trial. Mr Napuati accepted that the Court would have jurisdiction to grant leave for the filing of such statements if it felt that that were appropriate.
3. The statements themselves are relatively innocuous in their content. They refer to events which are not really in dispute. Mr Vira's statement confirms that he is the current Chairman of the Police Services Commission and confirms that he received a



letter from Mr Napuati in which Mr Napuati urged him to forward the recommendation for the appointment of Mr Nalpini to the President. Apparently Mr Vira did not do so. The statements of Mr Solomon and Mr Moa relate to a meeting with the President during the course of which the termination of employment of the former Chairman of the Police Services Commission Mr Api Markembo was discussed. All three deponents are available for cross examination and Mr Napuati had indicated that he wishes to cross examine.

4. I raised with Mr Napuati whether he could point to any prejudice to the claimant which had been caused because of the late filing of these statements. Mr Napuati acknowledged that no prejudice arises to the claimant through the filing of the statements and in all of the circumstances I can readily accept that no prejudice arises. I consider that to be the principal issue for consideration in whether the Court should grant leave for the filing of these statements or not. Having read the statements and considered the contents of them and given that no prejudice arises to the claimant in respect to the statements I grant leave to the respondents for the filing of those statements accordingly.
5. Mr Napuati's objection is dismissed.

Dated at Port Vila, this 2nd day of February, 2017

