



**IN THE NAURU COURT OF APPEAL
CIVIL APPELLATE JURISDICTION
AT YAREN**

Civil Appeal Number 16 of 2025
Supreme Court Civil Case Number 11 of 2024

BETWEEN
AND

AL24

Appellant

Republic of Nauru

Respondent

Before

Khan P
Palmer JA
Coates JA

Date of Hearing 16 June 2026

Date of Judgment 25 June 2026

Case may be cited as : AL24 v Republic of Nauru

CATCHWORDS: APPEAL - Asylum seeker - Opportunity to present case - Reasonable opportunity - Self-claim of mental health impairment - Evidence does not support claim - Fishing expedition - Trigger required for the order of mental health assessment

APPEARANCES

Mr Kenneally for the Appellant

Ms Lucas for the Respondent

JUDGMENT

1. This appeal raises issues going to assessment of evidence, the ground of appeal being a denial of procedural fairness by failure to give the appellant reasonable opportunity, sometimes called lost opportunity, to adduce evidence as to his psychiatric, psychological or mental health condition.
2. The appellant is an asylum seeker from Bangladesh. He arrived in Australia by boat without a visa in February 2024 and was transferred to Nauru on 18 February 2024 pursuant to an

agreement between the two countries, where the appellant could make an application for refugee status.

3. He did so, but his application was rejected by the Secretary for Multicultural Affairs (the Secretary), as was his application to the Refugee Status Review Tribunal (the Tribunal) and his subsequent appeal to the Supreme Court.
4. He seeks that the decisions below be overturned and his matter returned to the Tribunal for reassessment and that he be determined to be regarded as a vulnerable person and special provision made because of his alleged psychiatric or psychological condition.
5. He based a case of fear of being returned to Bangladesh as he and his brother had been accused of a murder they did not commit.
6. Further information revealed that he feared persecution due to an Awami League (AL) party member being murdered, the Awami League then controlling the government in circumstances where there were great political unrest and violence. He said he was not politically active but his brothers were.
7. The case put forward before the Court was that the appellant had been denied reasonable opportunity to present his case, as he had been denied access to a mental health assessment.
8. Section 24 of the *Refugees Convention Act 2012* (the Act) allows for a discretionary decision by the Secretary or the Tribunal to seek a medical report as is in issue here.
9. The decision by the Tribunal records:

19. At the RSD [Refugee Status Determination] interview the applicant's adviser stated that "her feeling" was that the applicant may have a mild intellectual disability and she would like him assessed. The RSD officer said that he was concerned with the level of distress exhibited by the applicant in the interview and would like to know if the applicant had any diagnosed mental illness. There was a discussion as to how an assessment could be arranged with the RSD officer indicating he would make enquiries.

20. It is apparent that no assessment has been undertaken.
10. However, the decision then records at paragraphs 22 and 23, that the appellant had seen medical services provided for asylum seekers on 3 June 2024, 23 June 2024, 8 July 2024, 2 August 2024, 12 August 2024 and 30 August 2024.
11. The consultations from 8 July 2024 to 30 August 2024 were mental health assessments.
12. The notes recorded that on:
 - 8 July 2024 there was no evidence of psychosis, thought disorder, cognitive deficits and insight was intact (8 July 2024);
 - 2 August 2024 medication prescribed for sleep and insomnia resolved;
 - 12 August 2024 no psychosis, no psychomotor agitation evidence, no global cognitive deficits elicited and Mini-Mental State Examination not done/not warranted. The report did note he was not fully conversant.

- 30 August 2024 he still had sleep issues but no gross cognitive deficits and he was cooperative, good rapport, articulate.

13. Using that as the basis for their investigation, the Tribunal embarked on a long inquiry into his health claims during the hearing. On the evidence as a whole, the Tribunal stated that there was “no evidence that indicates the applicant has a cognitive deficit or intellectual disability” and also noted the representative’s submissions that the notes were brief and he had not been assessed by a psychological trauma specialist.

14. Given that the appeal is based on a denial of opportunity to give evidence of his mental state, that being evidence dealing with his psychological or psychiatric state, what a psychological trauma specialist is and would do was not put forth.

15. The Tribunal was aware of the tone of the submissions being put, and asked the appellant about his capacity to take part in the hearing and he indicated that he was “ok”.

16. The Tribunal also referred to the Nauru Refugee Status Determination Handbook¹ and stated at paragraph 26:

The presumption in RSD is that the applicant is competent. On the evidence either of a formal psychological assessment or, in the absence of such evidence, other evidence and observations available to the decision maker, the applicant may be found to suffer from a mental disorder. This should lead to an enquiry as to whether the applicant is competent to proceed with RSD. If the applicant is found to be competent but has impaired cognitive ability, it is important to address how the applicant’s ability to participate in RSD affected.

17. The Tribunal then referred to the applicant being upset when referring to the boat journey to Australia which he described as treacherous, but he answered questions spontaneously and without obvious distress and discomfort.

18. The Tribunal noted that post-hearing submissions expressed concern about the psychiatrist, Dr Andrew Mohanraj, with notes stating “Self harm forbidden by his religious persuasion”, as there was no evidence that Dr Mohanraj was a religious or cultural expert, and that there was no evidence that these statements were the statements of the appellant and not an opinion of the doctor.

19. The Tribunal noted an entry in the medical file by Dr Mohanraj of 12 August 2024 - “Religion: devout Muslim, actively practising his faith, views suicide as against his religious beliefs”, holding that the notes reflected what the appellant had told the doctor.

20. Dr Mohanraj’s position was also questioned because he is also Honorary Counsel for Nauru in Malaysia and it was open for the Tribunal to find the position obliged him to serve the interests of Nauru.

21. On that issue, the Tribunal determined that there was a failure to outline the conflict of interest being alleged against the Dr Mohanraj.

¹ August 2013, updated 2017, page 139

22. The relevant decision by the Supreme Court on appeal dealing with these matters was stated at paragraphs [8]-[26] and [31]-[33], with the submission being that the appellant had made the effort through the only mechanism available to him to obtain a “cognitive assessment” for the appellant.
23. Factually, the health records show numerous contacts with medical specialists and a mental health nurse and there is nothing to suggest a cognitive impairment.
24. Despite that, it is said he was denied reasonable opportunity to present his case, because such was never obtained.
25. At no stage were we given evidence of what such would entail, what such an assessment is so the Tribunal could understand it and who would do such an assessment, yet we note that Brady J in the Supreme Court referred to the appellant seeing Dr Priscila Nad on 2 August 2024 and 12 August 2024, who noted that her mental state examination on both occasions did not reveal any mental health concerns.
26. Counsel referred to conditions the appellant stated he was living in as affecting him – being tent accommodation, overcrowding, heat, mould, rats and cockroaches.
27. That in itself is not evidence concerning his mental health.
28. Counsel, as was stated in the court below, was putting before us that the medical evidence the Tribunal referred to was irrelevant, as they were assessments done for clinical purposes, and not undertaken for preparation of a report for the Tribunal’s use.
29. We have an issue with that line because the onus was always on the appellant to show how the medical reports, independent of the Tribunal processes, could not be relevant to an assessment of his mental health and whether he had a cognitive impairment such that he would not be able to represent his case.

What is lost opportunity?

30. The respondent’s counsel, referring to the appellant’s reliance on *Nathanson v Minister for Home Affairs*², where materiality was assessed after the court had found jurisdictional error of lost opportunity, was mistaken, because it had to be demonstrated the error was material.
31. In the Supreme Court, His Honour stated, of reasonable opportunity, at paragraph 57:

In *NDBR* [2024] FCAFA 114 at [80]}, the full court of the Federal Court of Australia observed the following as to the obligation in s39 of the Administrative Appeals Tribunal Act:

[38] This obligation reflects the position at common law and is no higher than that obligation: *Kamal v Minister for Immigration, Citizenship and Multicultural Affairs* [2023] 300 FCR 106 [17] (Rares, Bromwich and Raver JJ). As Deane J put it in *Sullivan v Department of Transport* (1978) 20 ALR 323 at 342, it is a “statutory recognition” of the

² [2022] HCA 26

duty which the common law would imply. Importantly, the obligation is to provide a reasonable opportunity, “not necessarily an optimal one”, Kamal at [31].

[39] What constitutes a reasonable opportunity in a particular case, will always depend on the facts. In Kamal at [18] the full court approved the following statement made by the primary judge [Mortimer J]:

What is, and is not, a “reasonable opportunity” will of course be highly fact, dependent. It can be accepted that the tribunal’s discharge of its obligation may well require it in certain circumstances, to be proactive, to be flexible, and to actively consider the circumstances of a review applicant. All such matters inhere (sic) in the concept of what is reasonable opportunity is a specific situation. None require a gloss on the s39(1) obligation itself.

32. The court in *NDBR* also referred to *Minister for Immigration and Multicultural Affairs; Ex parte Lam* [2003] HCA 6; (2003) 214 CLR 1; (2003) 195 ALR 502; (2003) 77 ALJR 699 as did counsel for the respondent here, and *Minister for Immigration and Border Protection v SZMTA* as to their consideration of practical injustice [2019] 264 CLR 421 at [38]; [45] to [46]:

[40] ...The breach must result in a denial of the reasonable opportunity and the denial must be material to the tribunal’s decision: *SZMTA* at [38]. In *Lam*, there was no practical injustice because it was not shown that the affected party lost an opportunity to put any information or argument to the decision-maker or otherwise suffered any detriment: *Lam* at [36].

33. What then the appellant here must show is that firstly, there was a reasonable opportunity denied to him, and secondly, that such denial was material to the Tribunal decision.
34. Section 24 of the Act gives the Tribunal a discretion as to whether it would order or recommend a psychiatric report.
35. Discretions are not simply a case that it may exercise such in relation to the type of report sought, at will.
36. Discretions, whether judicial or administrative, are exercised on evidence.
37. The evidence referred to here was before the Tribunal. That, with the Tribunal’s observation of the appellant and his actions and presentation, combined so that it can be understood why it was not persuaded to go further and exercise a discretion to obtain some other report.
38. To take that further, as asked in the hearing, what explanation or legal ground is the trigger the Tribunal could rely on to exercise that discretion?
39. No reasonable submission was made.
40. We return here to the fundamental issue of capacity, because the appellant is asking for a finding that in some way an issue of capacity arises so as to affect the outcome of this decision. The basic test for capacity is whether a person understands what is occurring, as we referred to in *AV25 and Republic of Nauru*³.

³ Civil Appeal 21 of 2025 delivered 10 June 2026.

41. The type of issue the appellant appears to be referring to was discussed by the High Court of Australia in *BIF23 v Minister for Immigration, Citizenship and Multicultural Affairs*⁴. In relation to capacity, per Jago and Beech-Jones JJ, the following judgment was published when referring to visa legislation, but the comments are pertinent to general claims of some type of mental health:

- 81 The mental capacity on which the mandatory cancellation scheme is predicated, and therefore the nature of the "mental incapacity" that may vitiate the performance of the Minister's duties under s501CA(3), must be understood by reference to the specific statutory context. The context of the relevant provisions of the *Migration Act*, particularly ss 501(7)(e) and 501 (7)(f), include that the Commonwealth and every State and Territory in Australia has enacted legislation ensuring that persons who commit potentially criminal acts while unsound in mind or who are unfit to plead by reason of being unsound in mind are not subject to "criminal" conviction or sentence but, instead, may be committed to detention in an appropriate facility or institution (see eg Williams "Development and Change in Insanity and Related Defences [2000] MelbULawRw 28.
- 82 The details of these statutory regimes differ. With respect to whether a person has capacity to be held criminally responsible (which they will not be if a defence based on unsoundness of mind can be established), the statutory regimes are ultimately derived from the common law "*M'Naghten* rules". In *M'Naghten's Case* [1843] EngR 875, Tindal LCJ said that "to establish a defence on the ground of insanity, it must be clearly proved that, at the time of the committing of the act, the party accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act [they were] doing; or, if [they] did know it, that [they] did not know [they were] doing what was wrong".
- 83 With respect to whether a person will be fit to plead at common law, the relevant test is set out in *Kesavarajah v The Queen* (1994) 181 CLR 230, approving the criteria identified in *R v Presser* [1958] VicRp 9. Those common law criteria, now generally replicated across local jurisdictions in their relevant statutory regimes, require that a person have the ability "(1) to understand the nature of the charge; (2) to plead to the charge and to exercise the right of challenge; (3) to understand the nature of the proceedings, namely, that it is an inquiry as to whether the accused committed the offence charged; (4) to follow the course of the proceedings; (5) to understand the substantial effect of any evidence that may be given in support of the prosecution; and (6) to make a defence or answer the charge" *Kesavarajah v The Queen* (1994) 181 CLR 230 at 245, citing *R v Presser* [1958] VicRp 9.
- 84 Three aspects of the *Presser* criteria or their application should also be noted. First, they are trial and context dependent in that an accused person's fitness is to be assessed in the context of the trial they face, including its length - *Kesavarajah v The Queen* (1994) 181 CLR 230. Second, the authorities do not exclude the accused satisfying these criteria with assistance. Therefore, where the accused is represented by counsel they may satisfy the above criteria "through [their] counsel by giving any necessary instructions and by letting [their] counsel know what [their] version of the facts is", if the accused is capable of doing so *R v Presser* [1958] VicRp 9. Third, if an accused person is unfit to be tried, then there can be "no trial" and any trial that takes place would effectively be a "nullity" due to "a fundamental failure in the trial process" *Eastman v The Queen* (2000) 203 CLR 1 at 21-22.

⁴ [2024] HCA 44

- 85 These principles provide the ultimate basis in Australian law for ascertaining when a person's mental incapacity may be such as to render them unable to be held criminally responsible or unfit to plead. They therefore inform the nature of the mental incapacity that the mandatory cancellation scheme pre-supposes in persons whose visas are subject to mandatory cancellation on the basis of a "substantial criminal record" and, thereby, the nature of the incapacity that will vitiate the performance of the Minister's duties in s501CA(3).
- 86 Mental incapacity is not, of course, a singular concept. As Lord Reid stated in *Crowther v Crowther*, "[t]here are many degrees of mental incapacity" [1951] AC 723 at 735. Further, not every form of "mental incapacity", as a psychiatric concept, will be of legal significance. Whether a "mental incapacity" will entail a relevant "legal incapacity" will vary depending on the context. In *Crago v McIntyre*, Holland J observed that "for the purposes of considering legal capacity, a person's mind is not one and indivisible" [1976] NSWLR 729 at 739 citing *Tipper v Moore* [1911] HCA 42. For instance, a person "may be rendered partially unsound by the existence of delusions ... or other aberration, and yet be capable" at law of performing certain acts - *Crago v McIntyre* [1976] 1 NSWLR 729 at 739. But if the "unsoundness has some governing and relevant influence" on particular acts sought to be performed, then that unsoundness "may result in legal incapacity with respect to" those acts - *Crago v McIntyre* [1976] 1 NSWLR 729 at 739. In other words, **depending on the nature of the impairment, a person with a mental incapacity may have legal capacity** to conduct their business or manage their affairs in some respects but not in others. In *Gibbons v Wright*, when considering the degree of mental incapacity required to render execution of a deed void, Dixon CJ, Kitto and Taylor JJ said that "[t]he **law does not prescribe any fixed standard of sanity** ... [but] requires, in relation to each particular matter ... that each party shall have **such soundness of mind as to be capable of understanding the general nature of what [they are] doing**" - [1954] HCA 17. Similarly, Hodson LJ observed in *Estate of Park* that "**one cannot consider soundness of mind in the air, so to speak**, but only in relation to the facts and the subject-matter of the particular case" - [1954] p1122 at 136. (Emphasis added)
- 87 Those statements, so far as they concern the legal capacity of a person to validly enter into certain transactions such as a deed or contract, are not directly applicable to a person subject to the mandatory cancellation regime. However, they rightly emphasise that whether a person's mental incapacity constitutes a relevant legal incapacity is a question to be answered by reference to its context. Sections 501(7)(e) and 501(7)(f) expose that the mandatory cancellation regime, and s 501CA(3), which forms part of that regime, are concerned with a specific kind of mental incapacity – one which is tied to the underlying assumption that a person whose visa is subject to mandatory cancellation will not have been found to be incapable of being held criminally responsible or unfit to plead in the criminal processes that preceded the cancellation of their visa.
- 88 Accordingly, in the context of s 501CA(3), the requisite mental incapacity on the part of a person whose visa has been cancelled is not mere difficulty or even disability in understanding the notice, the invitation to make representations about the cancellation of the visa, or the potential consequences of not doing so (such as detention and removal from Australia if practicable). This reflects the principle that "partial unsoundness of mind does not necessarily spell total legal incapacity" *Crago v McIntyre* [1976] 1 NSWLR 729 at 739. The converse is also true. Soundness of mind in a certain respect, or mental capacity to understand some things, does not mean total legal capacity. This is why, as discussed further below, the fact that the appellant may have had capacity to understand the notion of, and give "verbal consent" to, his social worker requesting

assistance from Victoria Legal Aid ("VLA") does not mean the appellant had the legal capacity required for the purposes of s 501CA(3).

- 89 Understood within the statutory context of the mandatory cancellation regime (and assuming that the person at the relevant time did not have a validly appointed guardian), to be lacking legal capacity for the purposes of s 501CA(3) it must be found that, on the date of the notice being given, the person was subject to a requisite mental incapacity such that they were unable to: (a) understand the nature of the notice and the invitation to make representations about the cancellation of the visa; (b) make representations about the cancellation of the visa in response to the invitation; and (c) understand the substantial effect of the notice and invitation, and the making of representations, on them. This lack of capacity, moreover, must have been insuperable at the relevant time – that is, not capable of amelioration by the assistance of an interpreter, lawyer, or other adviser. The requisite mental incapacity must also be an inherent quality of the person's condition of mind or body at the time, although it need not be permanent; the mental incapacity needs only to have existed at the date the notice was given.
- These criteria for a requisite mental incapacity, which if satisfied at the relevant time will mean that, in the absence of a validly appointed guardian, a person's legal incapacity will vitiate the giving of a notice under s 501CA(3), accord with the fact that a person suffering from a disability (such as inability to speak English, illiteracy, poor cognition, or a range of mental illnesses) may be subject to some mental or legal incapacity, yet still be subject to the mandatory cancellation regime including the time limits prescribed for the making of representations in response to an invitation under eg *WACB v Minister for Immigration and Multicultural and Indigenous Affairs* [2004] HCA 50. This possibility is undoubtedly why the Minister relied on *Minister for Immigration and Border Protection v EFX17* [2021] HCA 9. That case, however, did not concern the interaction between ss 501(6)(a) and 501(7)(e) and (f), and s 501CA(3). *EFX17* concerned only a lack of capacity in a loose sense, which related to the person's broader practical ability to understand the notice and the invitation to make representations "having regard to the circumstances of the [person's] literacy, capacity to understand English, mental capacity and health, and facilities available to him in custody" - *Minister for Immigration and Border Protection v EFX17* [2021] HCA 9. Those issues do not reflect the specific type of legal incapacity, just described, that is the essential predicate for the operation of s 501CA(3) in the context of individuals deemed to have a "substantial criminal record". This is also why the Minister's submission that a sharp distinction between a lack of some legal capacity and a lack of full understanding does not exist is correct but immaterial. A mental incapacity occasioning a lack of some particular legal capacity (eg, to make a will or to enter a contract) is not the issue in respect of s 501CA(3), because that is not the criterion informing s 501(6)(a) or s 501(7)(e) or (f). What is relevant is **a requisite mental incapacity** (or physical disability involving a condition of mind or body causing such incapacity) **equivalent to that required to render a person unable to be held criminally responsible or unfit to plead. It is that kind and degree of legal incapacity which is an essential predicate of the performance of the Minister's duties under s 501CA(3).** (Emphasis added)

42. In considering and applying the meaning of what has been stated, we come back to the question of what we call the trigger to exercise the discretion which the Tribunal undoubtedly has. That the appellant wanted to run his case in a particular way is his right, but that in itself did not enliven the Tribunal's ability to exercise the discretion to provide him with the means of obtaining the evidence he thinks might exist, in circumstances where medical reports did

not disclose the slightest concern about his mental health or a cognitive impairment, such that would prevent him presenting a case.

43. In *BIF23*'s case, it must have been apparent to his legal advisers that he lacked capacity, and a close reading of the judgment indicates that he was not acting normally.
44. On the observation of the Tribunal members, such abnormality here was not observed, and so, without more, there was no trigger as we refer to it, or in legal terms, cogent and persuasive evidence, that a report ought to be commissioned before it.
45. In summary, and applying the principles of *BIF23* to this case, the appellant would have to prove that at relevant times he lacked a defect of reason so that he did not know what was occurring - paragraph 82. He would have to show he did not know the nature and effect of the Tribunal hearing and be unable to follow it - paragraph 83. He would have to give adequate instructions to counsel, or be unable to give such - paragraph 84. He may have a mental incapacity but still understand the proceedings - paragraph 86.
46. The summary, then from *BIF23* is at paragraph 89, and again although relating to a specific section of the *Australian Migration Act*, has relevance to the Tribunal's consideration of his claim for refugee status, so that the appellant must have:

...a requisite mental incapacity such that they were unable to: (a) understand the nature of the notice and the invitation to make representations about the cancellation of the visa; (b) make representations about the cancellation of the visa in response to the invitation; and (c) understand the substantial effect of the notice and invitation, and the making of representations, on them. This lack of capacity, moreover, must have been insuperable at the relevant time – that is, not capable of amelioration by the assistance of an interpreter, lawyer, or other adviser. The requisite mental incapacity must also be an inherent quality of the person's condition of mind or body at the time, although it need not be permanent; the mental incapacity needs only to have existed at the date the notice was given.

47. The Tribunal had the appellant's evidence, noted at length the submissions on the appellant's wish to undergo some type of psychiatric or psychological assessment, and determined that it did not have evidence to exercise a discretion to obtain a report. While there is no onus on the appellant to show what the lost opportunity could contribute to his case, in circumstances where medical reports show no mental health issues are apparent, he perhaps limits his case by not stating how new evidence would assist him.
48. This issue of having triggering evidence is fundamental to these types of claims, and the unqualified opinion of the appellant is not enough, without more, to have the power to seek a medical report exercised.
49. That his Honour stated at paragraphs [65] and [66] that if there was a lost opportunity there was no practical injustice, is not a finding of a lost opportunity. To have lost the opportunity of receiving a mental health assessment as sought required that there was evidence of some underlying condition, and on all of the evidence there was no such evidence other than a claim by the appellant himself. That claim is not evidence, although we do not rule out

circumstances where such a self-claim could not amount to identification of an underlying condition.

50. What the appeal is doing is, to use a well-worn phrase, going against “the teeth” of the evidence.
51. The appellant then is in the position of not proving his case at an administrative level before the Tribunal, and failing to show an error in the Supreme Court. He did not lose an opportunity, he was in the position of never having the circumstances to allow that opportunity to occur.
52. That the appellant’s argument is directed at the impossibility of obtaining an independent report in Nauru in circumstances where he wishes to run his case upon such evidence, and such could be remedied by access to the power in s24 of the Act to order a report, mistakes the purpose of the power.
53. The power has the appearance of being a protective power, given to the Secretary for Multicultural Affairs and the Tribunal, when circumstances of an applicant suggest or show that there may well be a question arising as to capacity. It is a protection for the applicant, who is otherwise presumed to be competent.
54. It is not an evidential tool for use of the appellant simply because an appellant states that an assessment may be evidence they may choose to rely on. That appears to be a classic case of fishing for evidence.
55. We have not lost sight of the fact that the appellant originally claimed that he was sought for murder, and his evidence that he did not know whether he would be charged or not, and other statements which seemed to expand on that issue as well as his political position. On rehearing the matter, no new aspect has been put to us which would cause us to overturn the decisions below.
56. The appeal in the circumstances stated here must be dismissed.
57. We also want to address another matter.
58. During the hearing before the Tribunal, the appellant had attempted to impugn Dr Mohanraj’s reputation by reference to a case, *BAF18 v Minister for Home Affairs*⁵, in which the Federal Court of Australia found that his evidence was less than helpful. The Tribunal decision at paragraph 34 records what Bromberg J (we note a mistake and the Tribunal records the name as Bloomberg) stated in *BAF18*. Bromberg J referred to the reports of three doctors being more helpful than five other doctors. He also stated that Dr Mohanraj had no specialised expertise in child and adolescent psychiatry. It is hardly the case that the comment of being less than helpful challenged his medical expertise.
59. Dr Mohanraj’s qualifications also appeared to be challenged as being very short, but where no psychological or psychiatric issue, nothing else needs be stated.

⁵ [2018] FCA 1060

60. That submission referring to the doctor seemed to be a completely unfair submission, with the Tribunal stating that his professional opinion with regard to this appellant was not tainted. Such submissions should never have been made. We note that counsel in this Court quite properly did not rely on such an issue and have no criticism of him.

ORDER

1. The appeal is dismissed

DATED this 25 day of June 2026



Khan P
President of the Nauru Court of Appeal



Palmer JA
Justice of the Nauru Court of Appeal



Coates JA
Justice of the Nauru Court of Appeal

