

IN THE NATIONAL COURT)
OF JUSTICE HELD AT WAIGANI)
PAPUA NEW GUINEA)

OS NO. 10 OF 2012

BETWEEN:

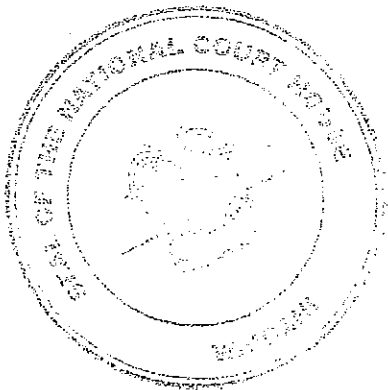
TOAMI KULUNGA
- *First Plaintiff*

AND:

**THE INDEPENDENT STATE OF PAPUA
NEW GUINEA**
-*Second Plaintiff*

AND:

DAVID DOTAONA
- *Defendant*



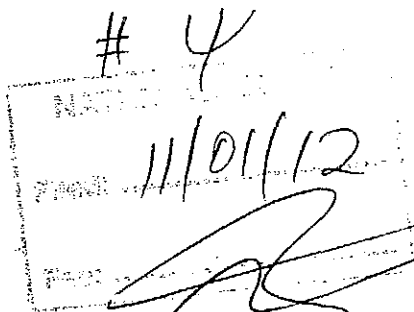
AFFIDAVIT IN SUPPORT

Deponent: ALICE KIMBU
Sworn: 11th January, 2012
Filed: 11th January, 2012

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File Ref: AK/KUL: 3098:ep



IN THE NATIONAL COURT)
OF JUSTICE HELD AT WAIGANI)
PAPUA NEW GUINEA)

OS NO. OF 2012

BETWEEN:

TOAMI KULUNGA
- *First Plaintiff*

AND:

THE INDEPENDENT STATE OF
PAPUA NEW GUINEA
-*Second Plaintiff*

AND:

DAVID DOTAONA
- *Defendant*



AFFIDAVIT IN SUPPORT

On the day of January, 2012 I, ALICE KIMBU of PARUA LAWYERS, P.O. Box 900, PORT MORESBY, National Capital District, say the following on Oath: -

1. Except where it is stated to be on information or belief, I have personal knowledge of the matters deposed herein.
2. I am a Lawyer in the employ of Parua Lawyers, the Lawyers who have conduct and carriage over this matter for the First Plaintiff. As such, I am entitled to depose to the contents of this my affidavit.
3. The Defendant acts for the Plaintiff Mr. Fred Yakasa in proceedings: OS NO. 958 OF 2011 - FRED YAKASA -v- TOAMI KULUNGA & THE STATE. In that proceeding, we act for the First Defendant, Mr. Toami Kulunga.
4. On 16th December, 2011 the Defendant's client filed proceedings by way of Originating Summons seeking amongst other orders the following: -
 - "(1) A declaration that the Plaintiff is the lawfully appointed acting Commissioner of Police pursuant to Gazettal Notice No. G390 dated 13th December, 2011; and
 - (1) A declaration that the First Defendant's appointment as the Commissioner of Police was revoked pursuant to Gazettal Notice No. G390 dated 13th December, 2011."

Annexed hereto and marked with the letter "A" is a true copy of the Originating Summons filed on 16th December, 2011.

5. On 16th December, 2011 still, the Court granted Mr. Yakasa interim restraining orders until trial or further order restraining the Plaintiffs and their agents, servants and others whosoever from arresting, harassing, intimidating, approaching, etc, Mr. Yakasa, his agents, servants, etc., from performing their duties and functions as policemen under the Constitution and the Police Act.

Annexed hereto and marked with the letter "B" is a true copy of the Court Order of 16th December, 2011.

6. The matter last returned to Court on 27th December, 2011 at 9: 30 am. On this date, the Defendant on behalf of his client applied to the Court to amend his Originating Summons. Counsels for both Plaintiffs objected to the application to amend. Also, there was no formal application before the Court for the proposed amendments. The Court adjourned the matter to 12th January, 2012 at 9: 30 am and directed amongst others that any application be made by any parties before the Court prior to 12th January, 2012. The Court also extended the interim orders to 12th January, 2012.

Annexed hereto and marked with the letter "C" is a true copy of unsealed Amended Originating Summons.

7. On the afternoon of 27th December, 2012 we became aware of a **Press Release** dated 23rd December, 2011 by Mr. Yakasa published in the National newspaper. Hence, we filed an urgent application to amend the terms of the interim orders of 16th December, 2011 to prevent Mr. Yakasa from holding himself out as the lawfully appointed acting Commissioner of Police until the substantive matter was dealt with. However, Her Honour Davani J directed that this application will return on 12th January, 2012 to be dealt with.

Annexed hereto and marked with the letters "D1" & "D2 " are true copies of our Application filed on 27th December, 2011 and Her Honour Davani J's notation dated 27th December, 2011.

8. On Saturday, 07th January, 2011 I came into the office at around 4: 00 pm with the intention to staying through to the night to work on my submission with respect to the proceedings: OS NO. 958 OF 2011 – FRED YAKASA –v- TOAMI KULUNGA & ORS. These proceedings were filed by Mr. Yakasa against Mr. Toami Kulunga over the position of the Commissioner of Police. This matter is returnable before Davani J on 12th January, 2012 at 9: 30 am.
9. On Sunday, 08th January, 2011 at around 12: 30 midnight whilst I was in the office working on our submission, I received a text message from Mr. David Dotaona, legal Counsel for Mr. Fred Yakasa wherein he wished me good night. As this was an odd text message at an odd hour, and considering the fact that I do not communicate with Mr. Dotaona except when we are communicating regarding the matter, I replied his text by asking him what was up for him to be texting me this late.
10. Mr. Dotaona then stated that there were some things that he wanted to talk about with me personally and off the record regarding the case between Mr. Yakasa and Mr. Kulunga and that he wished to come and pick me up for us to talk. I advised him that the hour that he was making such a request was inappropriate for us to be discussing this matter and hence, I asked if we could meet during the day some time from 8: 00 am to 5:00 pm. Mr. Dotaona was very adamant and kept texting me and trying to talk me into going with him. I advised Mr. Dotaona that whilst I did not mind discussing the matter with him, I had issue with the timing and therefore could not meet him.
11. Despite me taking issue with the timing, he kept persisting that he needed to talk to me. By this time, it was already 4: 00 am. I then asked if he could come over to where I was, at 2 Mile, Pacific View Apartments and we could talk or he could tell me whatever he was going to say. I made that suggestion thinking he was going to be reluctant to come considering the hour. I was also interested to hear what it is he wished to discuss with me. However, he got his security guards and they came in two vehicles. Mr. Dotaona then phoned and advised me that he was at the gate and that I go and meet him.

12. Note however, that prior to the arrival of Mr. Dotaona and his men, I went down to the gate and informed the security guards that I was expecting visitors but, that they may not be friendly. I briefed them of the situation and advised them not to allow the vehicles to come into the gate. I then gave betel nut to the two security guards and we set and chewed while waiting for the arrival of Mr. Dotaona.
13. Mr. Dotaona and his men came in two vehicles. One was driven by Mr. Dotaona himself and the other 5 door maroon in colour was driven by **Mr. George Kakas**. I asked the guards to walk with me to the gate and stand around whilst I talked to Mr. Dotaona and his men. The guards stood at the gate and watched us talk. Mr. Dotaona even gave one of the guards K9. 00 (a K5 note and 2 K2 notes). When they arrived, they said they bought a carton of beer (white can) to drink with me. They offered me a can of beer and I accepted it. In total I drank 4 white cans of beer.
14. In the introductory part of our meeting, Messrs Dotaona and Kakas told me that I was in the wrong side and I should change my position and support them. They advised me that Belden Namah and Hon. O’Niel were also crooks and I really needed to switch positions. In the course of our meeting, at around 5: 30 am Mr. Dotaona suggested we take a ride in the car and talk some more. He suggested we travel up to Bluff Inn, 14 Mile and I declined. He then suggested we drive to Gordons and get a few drinks there. He said there were things he still needed to discuss with me. I eventually agreed and I got on with Mr. Dotaona in the gray car. I was sitting off side. Mr. Kakas drove ahead of us and we went after him. However, on the way to Gordons, we lost Kakas’ vehicle. We searched Gordons area 2 times but we could not locate the Kakas’ vehicle. Hence, Mr. Dotaona suggested we go get beers at ATS. Hence, we traveled to ATS. At ATS, there was a small canteen where they were selling beer. Mr. Dotaona and his cousin went and bought a carton of Beer (SP). We then took that carton and drove across to the other side of ATS facing the new airport. At that time it was exactly 6: 15 am. Mr. Dotaona asked me to consent to the orders they sought in the proceedings and thereafter contacted Mr. Peter Ipatas, the Enga Governor. He put his phone on speaker and advised Mr. Ipatas that he was with me and that Mr. Ipatas should make an offer to me. Mr. Ipatas then said he would give me or organize for me **K200, 000. 00** so that I could sign the consent orders suggested by Mr. Dotaona. I heard Mr. Ipatas say *“tell her I will personally organize K200, 000. 00 for her if she consents.”*
15. Mr. Dotaona then contacted Mr. Yakasa and advised him that he was with me and that he was trying to have me sign a consent orders to hand up in court. He then gave the phone to me and Mr. Yakasa said *“I am happy that you guys are meeting”*. I told him that it was Mr. Dotaona’s idea to meet so we will see how things go.
16. Mr. Dotaona then contacted Mr. Aurther Somare and explained to him of Mr. Ipatas’ position and Mr. Somare said for us to go and meet him at Gateway Hotel at 7 mile. We then went there and had breakfast with Mr. Somare at around 7:30 am wherein Mr. Dotaona briefed him of what had transpired. Mr. Somare said that he trusted Mr. Dotaona and that if I wanted anything, I talk to Mr. Dotaona. Mr. Dotaona further asked Mr. Somare to organize two rooms, one for me and one for himself for us to prepare the consent orders and sign same. He said he wanted to hand up the consent orders to Court tomorrow, 09th January, 2012 at 9: 30 am when Gabriel Yerr’s matter returned to Court for hearing. Mr. Somare made note of his request and got up and left saying he did not want to be seen with us.
17. I then asked Mr. Dotaona to drop me off at my office which he did. I then advised my Principal Ms. Margareth Parua and Mr. Hoges A Ette of what had transpired. Mr. Dotaona and his men have since been calling me and texting me to confirm my position on whether or not I will receive the **K200, 000. 00** and sign the consent orders declaring Mr. Yakasa as the lawfully appointed acting Commissioner of Police.

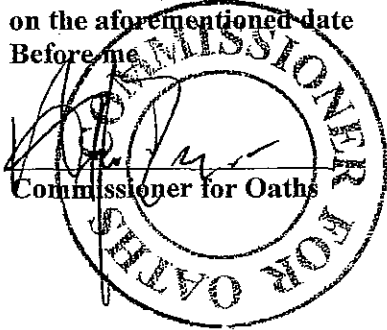
18. I declined to accept Mr. Dotaona's offer and referred the matter to the police. The text messages that were exchanged between Mr. Dotaona and myself were forwarded to my Principal, Ms. Margareth Parua's phone and then emailed to Miss Sofia Ramoi for purposes of printing. These text messages have been printed.


Annexed hereto and marked with the letters "E1" – "E42" are the printed copies of the text messages I received from Mr. Dotaona on 08 January, 2012.

19. Furthermore, the text messages I sent in response to Mr. Dotaona's text messages were also printed.

Annexed hereto and marked with the letters "F1" – "F20" are the printed copies of the text messages I sent in response to Mr. Dotaona's messages on 08 January, 2012.

Sworn and Signed)
at 2 Mile Hill in PORT)
MORESBY, NCD)
on the aforementioned date)
Before me)





Deponent