

IN THE SUPREME COURT OF NAURU

MISC. CAUSE NO. 9/2002

IN THE MATTER of Article 36 and
32(1)(d) of the Constitution of Nauru

<u>BETWEEN</u>	:	PRES-NIMES EKWONA	<u>PLAINTIFF</u>
<u>AND</u>	:	SECRETARY FOR JUSTICE RETURNING OFFICER	<u>1ST DEFENDANT</u> <u>2ND DEFENDANT</u>

ORDER

The Court orders as follows –

1. it is declared that the Speaker of Parliament has erred in applying Article 32(1)(d) of the Constitution in that the Plaintiff's absences from the Parliament did not meet the criteria for application of the said Article and accordingly Pres-Nimes Ekwona remains a member of Parliament.
2. it is further declared, in assistance to those persons concerned with the operation of Article 32(1)(d) of the Constitution, that

the Court henceforth will require the following conditions to be satisfied –


i. the commencement date of the period of two months must be a day when Parliament met,

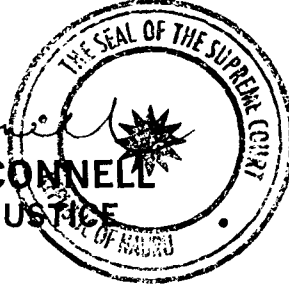
ii. the conclusion of the period must be a day upon which there is a meeting of Parliament, and that day must be two months or more from and including the first meeting day when the member was absent,
and

iii. there must be at least one additional meeting day during the period of two months immediately following the commencement date of the period.

3. the injunction against the Returning Officer is discharged upon the undertaking of Counsel for the First Defendant, following the decision of the Court, that the Writ of the Speaker for an election of a member of parliament gazetted on 12 June 2002, is to be withdrawn.

4. No order as to costs.


BARRY CONNELL
CHIEF JUSTICE



The seal of the Supreme Court of Hawaii is circular. The outer ring contains the text "THE SEAL OF THE SUPREME COURT" at the top and "OF HAWAII" at the bottom. The center of the seal features a stylized tree or plant.