

# Australian court told witnesses were threatened in Julian Moti case

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The Queensland Supreme Court has heard allegations that witnesses called by counsel for former Solomon Islands' attorney general Julian Moti were threatened with the termination of their employment if they gave evidence. The claims were raised in Brisbane yesterday, on the second day of hearings on Moti's application for a permanent stay of proceedings on statutory rape charges relating to allegations that were discharged by a Vanuatu magistrate in 1998.

The constitutional and international law expert is arguing that the court should throw out the charges before trial, on the grounds that the prosecution represents a politically motivated abuse of judicial process. The Australian Federal Police (AFP) began their investigation into the Vanuatu charges—on the highly contentious grounds of Australia's extraterritorial Child Sex Tourism Act—after a request from Australia's High Commissioner to Solomon Islands Patrick Cole in late 2004. Cole, it has now been established, wanted a criminal investigation opened in order to sabotage Moti's pending appointment as Solomon Islands attorney general.

The AFP pursuit of Moti intensified in 2006, at the same time as the Australian government of Prime Minister John Howard—with the enthusiastic backing of the Labor Party—launched a regime change campaign against the Solomon Islands government of Prime Minister Manasseh Sogavare. The Sogavare administration was regarded as a threat to the Regional Assistance Mission to Solomon Islands (RAMSI), Canberra's neo-colonial occupying force first dispatched in 2003.

Moti was extracted from the Solomon Islands and arrested in Australia in late December 2007, following Sogavare's ousting in a parliamentary no-confidence motion. Moti's counsel, Dyson Hore-Lacey SC, has thus far focussed on the circumstances surrounding what he has characterised as Moti's kidnapping, including what he alleges was unlawful conduct by AFP agents and improper involvement of senior Australian High Commission officials. The deportation was

carried out despite a Solomon Islands' magistrate's earlier prohibition of such action. (See: "Australian court hears Julian Moti's challenge to 'politically motivated' prosecution")

Three witnesses involved in Moti's extraction—two Solomon Islands' police and a former immigration official—have allegedly been threatened with loss of employment if they testify at the stay of proceedings hearings now underway.

Addressing the court via video link in RAMSI's Honiara headquarters, Solomon Islands' police officer Sam Kalita yesterday said that he was appearing in defiance of a threat made by his superiors that if he testified he would be fired. Kalita accompanied Moti on the flight from Honiara to Brisbane on December 27, 2007. He said that earlier this week, he and Selwyn Akao, the police officer who transported Moti from his Honiara residence to the airport, were called before the Solomon Islands Deputy Police Commissioner Walter Kola and Honiara Police Commander Nella Mosese and told that they "would be fired" if they gave evidence. Kalita told the court that Kola and Mosese said that he "should stay out of the Moti case".

Kalita said that Akao had been "scared" by the threat. Akao did not appear yesterday to give evidence, although he had been expected to do so.

Without providing any specific details, Dyson Hore-Lacey told presiding Judge Debra Mullins that another witness, former senior Solomon Islands' immigration official Peter Mae, had also been threatened with termination of his employment if he appeared before the court. Like Akao, Mae had been expected to give evidence yesterday but failed to attend.

It remains unclear as to whether any Australian or RAMSI officials are alleged to have been involved in any attempts to

interfere with witnesses.

Part of Kalita's testimony centred on the circumstances surrounding the approval of his immigration and visa documents to enter Australia after he flew out of Honiara with Moti. Kalita told the court that he met with AFP agent Peter Bond at the Australian High Commission office in Honiara the day before Moti was deported. On Bond's instructions he signed a blank short stay business visa; Bond then took it away, before returning 10 minutes later with Kalita's personal details now filled out and the visa approved.

According to Kalita, Bond then said he was happy that he was getting Moti out of the country. Kalita added that after asking Bond why he was not also accompanying Moti on the flight out of the Solomons, the AFP agent said words to the effect that "That wouldn't look straight."

For Solomon Islanders, acquiring Australian visas is normally a lengthy and frequently difficult process. The apparent speed with which Kalita's documents were processed, and the manner in which it was done, raises disturbing questions about the involvement of Australian police and diplomatic officials in what were highly irregular, if not unlawful, deportation arrangements.

John Agius for the Commonwealth Director of Public Prosecutions attempted to challenge Kalita's credibility as a witness. He suggested that Kalita himself had filled out the visa application—a claim stridently denied by the Solomons' police officer—and implied that Kalita's recollection of Bond's conversation with him after the visa was approved was inaccurate. Agius also stressed that Kalita and Akoa are currently on indefinite suspension in relation to disciplinary matters.

The other witnesses appearing in court via video link yesterday were Charles Ashley, Michael Pitikaka, and Chris Hapa.

Charles Ashley, a Solomons' lawyer, was present at the airport when Moti was deported. He testified that he saw at least one Australian High Commission vehicle on the tarmac, and saw then Deputy Police Commissioner Peter Marshall (a New Zealand national, currently serving as Solomon's police commissioner) walking towards the vehicle. Ashley told the court that he subsequently met Marshall in the airport's transit lounge, where the police commissioner told him words to the effect that, "The time for discussion is over—Moti is getting on the plane."

Michael Pitakaka and Chris Hapa, two Solomons' lawyers, appeared in the witness stand in order to confirm the truth and accuracy of their statutory declarations. Agius has insisted that until the relevant witnesses organised by Moti's counsel swear to their accuracy, he will not recognise the validity of their statutory declarations. This is because the declarations were made in accordance with Solomon Islands' rather than Australian legal convention.

As a consequence, other witnesses are likely to have to go through the same procedure as Hapa and Pitakaka—making themselves available for the few minutes necessary to swear an oath and testify to the truth of their statutory declarations. To do this from Honiara, however, requires witnesses going through the extraordinary security checks demanded by RAMSI before they are permitted into the headquarters of the intervention force, where the video conferencing facilities are located. The court was told that it takes about 30 minutes for witnesses to get through RAMSI security.

The costs for establishing the video link—so far totalling nearly \$A2,000—have been borne by Moti himself.

The court yesterday adjourned until next month, with proceedings scheduled for October 5. This date has been allocated to assess the character of any additional documents that may be released by the AFP over the next fortnight in accordance with Wednesday's disclosure ruling. An additional three days, October 14-16, have been listed for further hearings, with the proceedings possibly continuing into the following week if further evidence is required.

If the court rejects Moti's permanent stay application, a trial will commence in the first week of November.



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