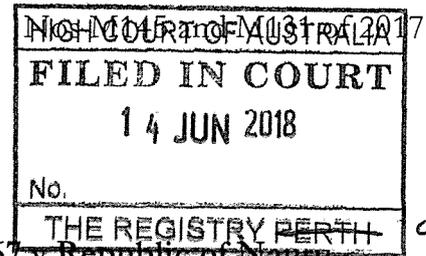


IN THE HIGH COURT OF AUSTRALIA
MELBOURNE REGISTRY



ETA 067 v Republic of Nauru

RESPONDENT'S OUTLINE OF ORAL ARGUMENT

1. This outline is in a form suitable for publication on the internet.

Summons seeking leave to amend

2. We do not seek to be heard in addition to the written submissions filed on 1 June 2018.

Ground 1

3. There is no sufficient basis to infer that the Tribunal ignored or failed to assess the Appellant's evidence of assaults against other persons he knew. Lack of reference to that material is consistent with the Tribunal having not found it persuasive as to the chance of the Appellant encountering serious harm (WS [13]).
4. Even if the evidence was overlooked, it does not follow that the Tribunal fell into any reviewable error (WS [21]-[24]).

Ground 2

5. Ground 2 attacks reasoning as to relocation which was set out by the Tribunal in the alternative. It therefore arises only if the Appellant succeeds on Ground 1 (ie, he must succeed on both grounds). (WS [8]-[10])
6. As to particular (a), the Appellant was put on notice that the nature of his political profile in Bangladesh was an issue in the review, and was also asked questions about the process of becoming a BNP member. That was sufficient to put him on notice that, to the extent that he claimed to have been a formal member, the Tribunal might not accept that claim. (WS [32]-[33])
7. WS [34] is not pressed.

8. As to both particular (a) and particular (b) (if the amendment is permitted), whether the Appellant had formally joined the BNP was not relevant to the question whether he could avoid harm by relocating and was not raised by him as an objection to relocation. If the issue in particular (a) or the material in particular (b) was not put to him, he did not thereby lose the chance of a successful outcome. (WS [31]; Submissions on Leave [10]-[12])

Geoffrey Kennett

Angel Aleksov

14 June 2018

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