



**JSMP Press Release**

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**APPEAL IN MURDER CASE HIGHLIGHTS LACK OF COORDINATION  
BETWEEN COURT OF APPEAL AND DISTRICT COURTS**

On 4 April 2005 the Court of Appeal in Dili heard an appeal relating to three suspects. The hearing was postponed and then adjourned as the Court of Appeal had not yet received the case file.

The appeal was lodged against the decision of an investigative judge from the Baucau District Court to implement the substitute restrictive measure of house detention on the three suspects. That decision was issued on 19 March 2005 in Dili during a 72 hour review hearing, based on the charge that the three suspects were involved in the murder of a victim on 4 February in Lautem District. The three suspects are PNTL officers from the Lautem District and are alleged to have beaten to death another PNTL officer.

The court of appeal sitting as a panel firstly heard submissions from the lawyer representing the three suspects as the applicant in this case. The applicant explained that the grounds for appeal were the submission of contradictory evidence by the Prosecutor in the Dili District Court hearing. The applicant stated that the forensic report evidence did not contain complete data about the cause of death. This report only concluded that the victim died as a result of murder. Moreover the applicant stated that the forensic report is vague, especially if it is compared to the medical report issued around about the end of January 2005 by the Baucau hospital which stated that the victim was suffering from malaria. The applicant believed that the various reports submitted as evidence therefore confused, rather than clarified the cause of death. The applicant argued that the house arrest orders imposed on the three suspects as substitute restrictive measures are therefore not justifiable.

The Prosecutor said that he was unable to respond to the submissions of the applicant because he had not received a copy of the appeal. The prosecutor said this was in conflict with the interlocutory appeal provisions set out in Section 23.2 of UNTAET Regulation 2000/30 as amended by 2001/25 (which requires a petitioner of an appeal to immediately serve a copy of the appeal upon the respondent). The prosecutor also raised a concern that the lawyer handling the appeal was not the same lawyer who defended the three suspects during the 72 hour review hearing which was held three weeks ago in the Dili District Court.

The panel of judges then decided to adjourn the hearing until 12 April 2005, the reason being that the panel of judges had not yet received the original case file from the District Court. It appears that the Court had not made any attempt to obtain the case file before the hearing date in the Court of Appeal, although the hearing had been scheduled for two weeks. JSMP does not understand how the Court could not have realized it did not have a copy of the file before it sat on 4 April, as the Court must surely have allocated itself time to examine the case file before it sat on 4 April.

JSMP believes that this case highlights the lack of effective coordination and communication between the district courts and the Court of Appeal. This accounts for the Court of Appeal failing to receive or bother to obtain the case file for the hearing. Problems such as this hamper the performance of the Court, and draw attention to the Court's poor administrative practices and apparent lack of preparation in some cases.