



**JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL**

Press Release

Dili, 13 March 2007

**DILI DISTRICT COURT HOLDS PROCEEDINGS TO INTERROGATE A MEMBER
OF ALFREDO REINADO'S ASSOCIATES**

Nixon Jaime da Costa Galucho is a victim of a shooting injury that resulted from the evacuation by Australian forces from Same to Dili some time ago. From JSMP's observations in the Dili District Court on Wednesday (07/03/2007) at 15.27hrs, the accused, Nixon, was accompanied by his lawyer Zenie Alves Arndt (Public Defender) at the interrogation proceedings stage and the judge who lead the interrogation was judge Ivo Nelson de Cairres Rosa Batista with the public prosecutor Bernardo c. Fernandes under the rather close scrutiny of the Australian Forces.

JSMP obtained information from the family of the accused (his parents and his wife) that the process of the initial investigation of the accused had in fact violated the law that is applied in RDTL. According to his family, Nixon, in fact, was not capable of attending the court for the hearing process because he was not yet fit to attend court in connection with this case. According to them, this injustice was deliberately created by the justice institution referred to. Because, according to them, the law is really only applied to the small people. Nixon's family gave an example: Some time ago, in a case involving State Officials, the Court did not have sufficient authority to force them (the official, who were legally accused, did not comply with the summons from the court on the mere excuse that their condition did not enable it (sick) and so the process of interrogation was delayed. "Why must the Court, in our

circumstances which are absolutely real, nevertheless urgently summons us?" The tone of the accused's family's defence was angry and upset.

JSMP observes that the attendance of the accused Nixon in the Dili District Court did in fact comply with Article 60 (a) of the Penal Procedure Code (KPP); namely, *in relation to the rights of the accused, where the article confers legal protection on a suspect* during the 72 hours since arrest and/or detention is effected. So the rights of a suspect were not violated at the time of arrest before the pre-trial.

Although the legal procedure followed by the Dili district court was, according to law, appropriate, there is, however, Article 198 of the Penal Procedure Code in relation to the postponement of pre-trial detention. According to JSMP, this is a weakness in the Timor-Leste Criminal Procedure Code itself. The drafters of this procedural law did not provide details on the regulation of this matter. So, here, it may be known that this criminal procedure law does not clearly regulate this issue of who is entitled to request postponement of pre-trial detention and who is competent to effect a postponement of proceedings for the accused so the application of this provision often experiences issues that are not desired by many parties. Because of that, the accused Nixon, without seeing his condition which is presently critical, was taken straight to court and the decision made to put him in isolated temporary detention.

After the hearing, the accused Nixon was taken by the Australian Military Police in a Military Police (MP) vehicle under tight guard for temporary lodging in the Becora Prison.

JSMP recommends to the Government that the process of investigation and hearing in Nixon's case be postponed until the condition of the accused's health is fully back to normal so that he can be brought before the proceedings to continue the process of the investigation and hearing of this case. To other parties, JSMP maintains the demand that justice be applied to all people. All people must be treated the same before the law. The guarantee to put this into effect is the Court which has the

constitutional competency and a basis in other relevant laws to decide each person's case through a thorough investigation and through a Justice Process that is just and right based on the applicable law.

FOR FURTHER INFORMATION PLEASE CONTACT:

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