

UNITED NATIONS



NATIONS UNIES

ETTA

East Timor Transitional Administration

DISTRICT COURT of DILI

SPECIAL PANEL for SERIOUS CRIMES

Before:

Judge Sylver Ntukamazina, Presiding

Judge Luis Antero

Judge Maria Natercia Gusmao Perreira

Case No.07/2002

The Public Prosecutor

Versus

Salvador Soares aka Salvador Leos Marobo

**Decision on the application of release of the accused
Salvador Soares aka Salvador Leos Marobo.**

For the Prosecutor:

Eric Mac Donald

For the Defense:

Siphosami Malunga

1. On the 2nd August 2002, this Court extended the detention of the accused Salvador Soares for the duration of the trial, for among other reasons, As stated by the defense, the testimony of the arresting police officer in this matter is of utmost importance. As requested by both parties, the Court heard the testimony of the witness Antonio Siga the threat that the accused may flee to avoid the criminal proceedings.
2. On the 6th September 2002, at the preliminary hearing, the defense presented a motion requesting the release of the accused person. It was submitted by the defense that there was no risk the accused would flee the jurisdiction of this Court as has been demonstrated by his conduct following the mass escape from Becora prison in August 2002.
3. The defense advanced that, following the escape from Becora Prison, the accused walked to Maliana for six days, and when he arrived in his village in Ritabou, he advised his brother Justino Soares that he intended to surrender himself to the police. He then asked his brother to go to the Maliana Police Station and inform them that he was in Ritabou. Following this, his brother had attended at Maliana Police and made the report after which the accused surrendered to the police. According to the Defense, *"the accused's conduct speaks for itself. He had the opportunity to flee and he did not. Instead he made arrangements for himself to surrender to the police and subsequently surrendered"*.
4. In support of his submissions, the Defense requested to call the witness Antonio Siga, the police officer who took Salvador Soares into custody following his escape. He requested the Court to issue summon for this witness to come before the Court and testify. The Defense also expressed his intention to call the witness Justino Soares as well as Antero Soares.
5. The prosecutor replied that the defense for Salvador Soares was not telling the truth when he said that the accused had voluntarily surrendered to the police following his escape. In support of his affirmation, the prosecutor produced a statement made by David Savage in which it is said that the accused had been arrested while hiding in Ritabou and that he had earlier fled the scene before being arrested. The prosecution submitted also, on the 12 September 2002,

during the preliminary hearing that the Police officer Antonio Siga who arrested the accused can indicate that the later did not surrender. Instead, when he saw Antonio Siga at the river, he tried again to flee.

6. The defense underlined that the Prosecution interfered with his witness Antonio Siga, what is, according to the Defense, unprofessional, intolerable and brings substantial doubts about the impartiality of Prosecutor in this procedure. This issue relating to the allegations from the defense that the PP has been interfering with the defense witnesses will be dealt with in a separate decision.
7. During the same preliminary hearing held on 12 September 2002, the Court decided to hear the witnesses Dave Savage and Antonio Siga.
8. The Court deemed not necessary to wait for the witnesses Justino Soares and Antero Soares.
9. The witness Dave Savage told the Court that he was not present when Salvador Soares was arrested. Other escapees told him that the accused was arrested and he saw the accused in the cell at Maliana Police. As underlined by the defense, the Court decides not to rely on David Savage,s testimony, which is hearsay.
10. As stated by the defense, the testimony of the witness Antonio Siga was very important since he was the arresting police officer, and therefore the eyewitness in this matter. Although both parties requested him, the Court decided to hear the witness on its own motion with respect to the issue of detention.
11. After making the oath to tell the truth to the Court , the witness Antonio Siga told the court that local Police in Bobonaro district arrested two people Francisco Dos Santos Laku and Paulino de Jesus, who said that one of their fellow run away in direction of Ritabou. Antonio Siga went to the house of Edimo Soares, to check if Salvador Soares was there and told him that there is a risk that the population could kill him. Some time later, Edimo went to the Maliana police station to inform Antonio Siga that Salvdor Soares was at that time in the river. Then Antonio siga proceeded alone in Ritabou on his motorcycle in order to arrest him. Antonio Siga told the Court that when Salvador Soares saw him, he tried to escape but the youths who

were present were able to help and capture him. The accused person were then arrested and driven to Maliana Police station by Antonio Siga.

12. From the testimony of Antonio Siga, it is clear that the accused did not surrender himself, indeed, he even tried to escape when he saw the police officer who was going to arrest him.
13. It is also not contested that Salvador Soares escaped from Beccora Prison as part of a mass escape of the majority of prisoners, and teamed up with a number of other escapees, traveled from Dili across country through the Ermera District and arrived in the Ritabou area around the evening of the 20th August 2002.
14. This is a clear indication, as submitted by the Public Prosecutor, that the accused did not respect the detention order of this Court, issued on the 2nd August 2002. *'This conduct demonstrates clearly that Salvador Soares constitutes a flight risk. This flight risk becomes even greater'* when combined with the evidence that Salvador Soares tried to escape when he was being rearrested after he escaped.
15. The Court does not agree with the defense allegations that the accused did not escape by his own, that he followed the mass and was influenced by others. The accused is an adult person, able to distinguish the good and the evil. He is individually responsible for his own acts. If he did not want to follow others, he could have remain in prison or at least just around, and not travel from Dili to Ritabou. This Court will not punish the accused because he escaped, however this has to be considered in evaluating the flight risk.
16. It is therefore clear that the risk for the accused to flee the jurisdiction of this Court once released still remains. The Court will then extend the detention of the accused for the duration of the trial, on the grounds underlined above and those already expressed in the decision of 2 August 2002.

The Court:

- Decides that the detention of the accused Salvador Soares be extended for the duration of the trial.

Dili, 16 September 2002

Judge Sylver Ntukamazina, presiding

Judge Antero Luis

Judge Maria Natercia Gusmao Perreira

