



THE HIGH COURT OF MALAWI
FINANCIAL CRIMES DIVISION

06 MAY 2024

LILONGWE REGISTRY
PRIVATE BAG 15 LILONGWE

**REPUBLIC OF MALAWI
IN THE HIGH COURT OF MALAWI
LILONGWE DISTRICT REGISTRY
FINANCIAL CRIMES DIVISION
CRIMINAL CASE NO. 10 OF 2023**

BETWEEN

THE REPUBLIC

VS

DR. SAULOS KLAUS CHILIMA

ORDER OF DISCHARGE UPON DISCONTINUANCE

(Pursuant to Section 77(1)(a) of the Criminal Procedure and Evidence Code)

WHEREAS Section 99(2)(c) of the Constitution of the Republic of Malawi (the Constitution) provides that:

“The Director of Public Prosecutions shall have power in any criminal case in which he or she considers it desirable so to do, subject to subsection (5), to discontinue at any stage before judgment is delivered any criminal proceedings instituted or undertaken by himself or herself or any other person or authority”,

AND WHEREAS Section 77(1)(a) of the Criminal Procedure and Evidence Code (Cap 8:01 of the Laws of Malawi) provides that:

“In any criminal proceedings, and at any stage thereof before judgment is pronounced, the Director of Public Prosecutions may enter a discontinuance, either by stating in court or informing the court in writing, that the State intends that the proceedings shall not continue, and thereupon—

(a) if the discontinuance is entered before the accused person is called upon to make his defence, he shall be discharged immediately in respect of the charge for which the discontinuance is entered, and if the accused person—
(i) has been committed to prison, he shall be released; or

(ii) is on bail, his recognisances shall be discharged,
but such discharge of an accused person shall not operate as a bar to any subsequent proceedings commenced once against him within six months of the discharge, on account of the same facts”,

AND WHEREAS Section 99(3) of the Constitution provides that:

“Subject to section 101 (2), the powers conferred on the Director of Public Prosecutions by subsection (2) (b) and (c) shall be vested in him or her to the exclusion of any other person or authority and whenever exercised, reasons for the exercise shall be provided to the Legal Affairs Committee of the National Assembly within ten days”,


AND UPON the Director of Public Prosecutions having filed a Certificate of Discontinuance with the Court, dated 3rd May, 2024, informing the Court that in exercise of his powers conferred by Section 77 of the Criminal Procedure and Evidence Code he has entered a discontinuance of the charges against the accused person herein in respect of three counts of corrupt transactions by agents contrary to section 27(4) of the Corrupt Practices Act as read with section 34 of the Corrupt Practices Act,

IT IS HEREBY ORDERED as follows:

1. The accused person herein, DR. SAULOS KLAUS CHILIMA, is immediately discharged in respect of the charges against him as specified in the aforementioned Certificate of Discontinuance.
2. Consequently, all conditions for his release on bail are hereby immediately removed.
3. The discharge herein shall not operate as a bar to any subsequent proceedings commenced against the said DR. SAULOS KLAUS CHILIMA within six months of the discharge herein, on account of the same facts.

PURSUANT to section 99(3) of the Constitution, reasons for the exercise by the Director of Public Prosecutions of his power of discontinuance herein shall be provided to the Legal Affairs Committee of the National Assembly within ten (10) days from the date of the aforementioned Certificate of Discontinuance.

Dated this 6th day of May, 2024


R.E. KAPINDU, PhD
JUDGE

