

Gibbons v. Seventh Koror State Legislature, 11 ROP 1 (2003)
JOHN C. GIBBONS and HOUSE OF TRADITIONAL LEADERS,
Appellants,

v.

SEVENTH KOROR STATE LEGISLATURE,
Appellee.

CIVIL APPEAL NO. 03-022
Civil Action No. 03-012

Supreme Court, Appellate Division
Republic of Palau

Decided: October 9, 2003

Counsel for Gibbons: Johnson Toribiong

Counsel for House of Traditional Leaders: Moses Uludong, T.C.

Counsel for Appellee: Raynold Oilouch and Mark Doran

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; R. BARRIE MICHELSEN, Associate Justice; KATHLEEN M. SALII, Associate Justice.

Appeal from the Supreme Court, Trial Division, the Honorable LARRY W. MILLER, Associate Justice, presiding.

PER CURIAM:

Before the Court is the parties' Joint Stipulation to Waive Oral Argument and Motion to Expedite the Appeal. Appellate Rule 2 permits the Appellate Division to suspend the requirements of any of the rules in a particular case on application of a party or on its own motion "[i]n the interest of expediting decision." ROP R. App. Pro. 2. However, the parties are not asking for any particular rule to be suspended and we find it difficult to characterize this as an appeal that needs to be expedited. This Court makes every effort to issue decisions in all of its cases as expeditiously as possible, and the same will be true in this case.

This is an appeal from the trial court's Summary Judgment and Decision issued on May 6, 2003, in favor of Seventh Koror State Legislature and against Governor John C. Gibbons and House of Traditional Leaders. The trial court concluded that the Koror State Legislature had the power to override the disapproval of certain line items by House of Traditional Leaders, and that the 2003 Budget Act as passed by the Koror State Legislature on December 31, 2002, was valid and effective. The parties filed their Stipulated Motion to Waive Oral Argument and to Expedite Appeal on September 17, 2003. In their motion and supplemental briefing, the parties state that

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they have agreed that oral argument is not necessary in this appeal. Further, the parties request that the appeal be expedited to allow the expenditure of “CIP” funding and to avoid confusion regarding the lapse of these funds as the Koror State Government begins drafting a new budget for fiscal year 2004. For the reasons set forth below, the parties’ motion is hereby denied.

Previous cases in which we granted expedited appeals provide some guidance in this case. For example, we agreed to give immediate consideration to a motion to stay a trial court decision that refused to enjoin a [L2](#) recall election where the parties demonstrated urgency due to the immediacy of the election. *See Andres v. Palau Election Comm’n*, 9 ROP 153, 153-54 (2002). In another case, we granted expedited review as it pertained to appellants’ claims of unlawful imprisonment where the appellants were already serving their period of imprisonment. *See Gotina v. ROP*, 8 ROP Intrm. 56, 57 (1999). However, we denied the motion for expedited review in that same case in regard to appellants’ claims challenging the fines imposed upon them because they failed to demonstrate any urgency with respect to those claims. *Id.* Therefore, a showing of urgency, accompanied by irreparable harm or a danger of mootness, is expected to merit expedited review.

Here, the parties have failed to demonstrate sufficient urgency to justify an expedited appeal. The parties’ contention that “there are vendors and others who are waiting to receive payment” may be a reason for those vendors to file suit, but it is not a reason to hear this appeal on an expedited basis. Regarding the argument that funds will lapse if the appeal is not decided by the end of the fiscal year: to the extent that funds have already been spent, or contracts executed, the funds are obligated and such funds will not lapse. To the extent that contracts have not been executed, there is no demonstrated injury, and the legislature can pass the appropriation again.

Because the parties have not shown the requisite urgency, we accordingly deny the motion for expedited review. This case will be considered on a non-expedited basis in accordance with the regular appellate calendar. Oral argument shall be heard at 3:00 p.m. on Friday, December 5, 2003.