

ROP v. Tmetuchl, 1 ROP Intrm. 296 (1986)
REPUBLIC OF PALAU,
Plaintiff/Appellee

v.

**MELWERT TMETUCHL, LESLIE NISSANG a/k/a LESLIE TEWID, and ANGHENIO
SABINO a/k/a ANGHENIO BEKEBEKMAD**
Defendants/Appellants.

CRIMINAL APPEAL 2-86
Criminal Case No. 388-82

Supreme Court, Appellate Division
Republic of Palau

Orders re motion for stay and for release on bail pending appeal
Decided: June 19, 1986

Counsel for Appellants: F. Randall Cunliffe, John S. Tarkong, James H. Grizzard, and David G. Richenthal

Counsel for Appellee: Philip Isaac, AAG

BEFORE: ROBERT WARREN GIBSON, Associate Justice; LOREN A. SUTTON, Associate Justice; PAUL J. ABBATE, Part-Time Associate Justice.

PER CURIAM:

Having been found guilty on March 6, 1986, of Murder in the First Degree and Conspiracy and having been sentenced on April 7, 1986, to 35 years incarceration on the Murder charge and 5 years on the Conspiracy to run concurrently, in the cases **L297** of defendants Tmetuchl and Sabino and 25 years on the Murder charge and 5 years on the Conspiracy to run concurrently in the case of defendant Tewid and having filed notices of Appeal on April 7, 1986, defendants now come before this Court and move for stay of execution of their sentences and release on bail pending appeal.

The Court, having heard argument thereupon from all parties and having read and considered the briefs and memoranda and the applicable law hereby issues the following Findings, Orders and Decisions.

Pursuant to R. App. Pro. 38, Crim. Pro. 8 and 46 and upon Finding that substantial questions of law are raised in the Notice of Appeal the Motions for Stay of Execution of Sentence in the case of each defendant are ORDERED granted.

Pursuant to the Constitution, Republic of Palau, Art. IV § 7, 18 PNC § 602 and upon exercise of the discretion thereby allowed and observing the guidelines provided in R. Crim. Pro.

ROP v. Tmetuchl, 1 ROP Intrm. 296 (1986)

38 and 46 and in R. App. Pro. 8 with particular emphasis given to R. Crim. Pro. 46(a)(1) thru (6) Bail is granted in the case of each defendant in the amount of \$150,000.00 cash and under the following terms and conditions:

In the case of defendant Melwert Tmetuchl:

1. That upon the agreement in writing and filed with the Court of Roman Tmetuchl, defendant be released to his custody and supervision.

2. That defendant be restricted to the immediate premises and property of his residence in the State of Airai between the hours of 6:00 p.m., and 6:00 a.m., daily and that at all other times defendant be restricted to the area of land within the recognized boundaries of the State of Airai and from entering the property occupied by the Palau Airport, otherwise known as the Airai Airport and from embarking from the land which he is restricted to on an aircraft or upon any waterborne vessel or by any other means.

3. That defendant have no contact direct or indirect with any prosecution witness who testified or provided information in this matter except insofar as is necessary through his attorney in the prosecution of the instant appeal.

4. That defendant releases any travel documents or personal identification cards or documents in his L298 possession or control to the Clerk of Courts and that those items previously released to the Clerk remain in the Clerk's custody.

5. That defendant makes all Court appearances as Ordered and follows all other directions and Orders of this Court.

6. That defendant obeys all laws including those restricting the possession and use of drugs and narcotics and of firearms or other dangerous or deadly weapons.

In the case of defendant Anghenio Sabino:

1. That upon the agreement in writing and filed with the Court of Roman Tmetuchl, defendant be released to his custody and supervision.

2. That defendant be restricted to the immediate premises and property of his residence at the home of his parents in the State of Koror, Hamlet of Ngerkesoal between the hours of 6:00 p.m., and 6:00 a.m., daily and that at all other times defendant be restricted to the area of land bounded by the access road beginning just northeast of Felix's Store and leading to Ngerkesoal and the area northeast of same to and including the area within the boundaries of the State of Airai and from entering the property occupied by the Palau Airport, otherwise known as the Airai Airport and from embarking from the land which he is

ROP v. Tmetuchl, 1 ROP Intrm. 296 (1986)

restricted to on an aircraft or upon any waterborne vessel or by any other means.

3. That defendant has no contact direct or indirect with any prosecution witness who testified or provided information in this matter except insofar as is necessary through his attorney in the prosecution of the instant appeal.

4. That defendant releases any travel documents or personal identification cards or documents in his possession or control to the Clerk of Courts and that those items previously released to the Clerk remain in the Clerk's custody.

5. That the defendant makes all Court appearances as Ordered and follow all other directions and Orders of this Court.

6. That defendant obeys all laws including those **1299** restricting the possession and use of drugs and narcotics and of firearms or other dangerous or deadly weapons.

In the case of Leslie Tewid:

1. That upon the agreement in writing and filed with the Court of Roman Tmetuchl, defendant be released to his custody and supervision.

2. That defendant be restricted to the immediate premises and property of his residence at the home of Johnson Toribiong in the State of Koror, Hamlet of Ngerbechedesau between the hours of 6:00 p.m., and 6:00 a.m., daily and that at all other times defendant be restricted to the area of land bounded by the access road leading to the aforementioned residence and located southeast thereof and leading to Ngerbechedesau and the area northeast of same to and including the area within the boundaries of the State of Airai and from entering the property occupied by the Palau Airport, otherwise known as the Airai Airport and from embarking from the land which he is restricted to on an aircraft or upon any waterborne vessel or by any other means.

3. That defendant has no contact direct or indirect with any prosecution witness who testified or provided information in this matter except insofar as is necessary through his attorney in the prosecution in the instant appeal.

4. That defendant releases any travel documents or personal identification cards or documents in his possession or control to the Clerk of Courts and that those items previously released to the Clerk's custody.

5. That the defendant makes all Court appearances as Ordered and follow all other directions and Orders of this Court.

6. That defendant obeys all laws including those restricting the possession

ROP v. Tmetuchl, 1 ROP Intrm. 296 (1986)

and use of drugs and narcotics and of firearms or other dangerous or deadly weapons.

The Probation Officer is ORDERED to personally monitor each defendant's activities by personal interview with each on at least one occasion per week and with custodian Roman Tmetuchl as indicated to confirm compliance with this Order and to immediately report any deviation therefrom to the Court.

¶300 The Clerk of Court is ORDERED to transmit copies of this Order to all air, land and waterborne carriers located within the Republic of Palau and to the Directors, Department of Public Safety and Customs and Immigration.

If custodian Roman Tmetuchl desires, for purposes of supervision, to change any place of residence or the terms of restriction applying to any or all defendants he shall petition the Court by written application filed with the Clerk seeking the Court's permission to do so. Said permission may be granted by any two Justices from this panel sitting in banco in formal hearing or in chambers.