

Elewel v. Oiterong, 5 ROP Intrm. 262 (1996)

**KUNIWO ELEWEL,
Appellant,**

v.

**IBAU OITERONG,
Appellee.**

CIVIL APPEAL NO. 22-96
Civil Action No. 203-95

Supreme Court, Appellate Division
Republic of Palau

Opinion

Decided: October 9, 1996

Counsel for Appellant: Mark Doran

Counsel for Appellee: William L. Ridpath

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; JEFFREY L. BEATTIE, Associate Justice; LARRY W. MILLER, Associate Justice

PER CURIAM:

Following an initial extension of time, appellant's opening brief was due on July 30, 1996. It was not filed until the afternoon of August 2, 1996. In the meantime, earlier that day, this Court had issued an order to show cause why this appeal should not be dismissed for failure to prosecute. Appellant timely responded to the order, detailing a series of snafus that delayed ¶263 the filing of the brief. Appellee has filed no motion to dismiss, nor has she filed any response to appellant's submission.

The reasons offered by appellant's counsel for his late filing, while credible, do not constitute an excuse for his failure to notify the Court of his technical difficulties and to seek, *nunc pro tunc* if necessary, a suitable extension of time as soon as possible -- here, by not later than the morning of July 31. Such action would have obviated the need for this Court to issue both its show cause order and this resolution of it.

Nevertheless, appellee having suffered neither legal nor monetary prejudice, we find that dismissal is not warranted and that a monetary sanction imposed, as he suggests, on appellant's counsel only, will suffice. Appellant's counsel is accordingly sanctioned in the amount of \$100, to be paid to the Clerk of Courts within seven days of this Order.

Appellee shall have thirty days from the date of this Order to file his responsive brief.