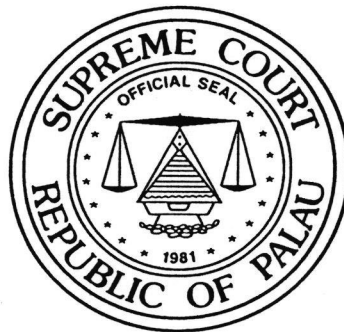


JURY TRIAL RULES FOR THE COURTS OF THE REPUBLIC OF PALAU

Promulgated by the Palau Supreme Court
April 28, 2010



IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU

IN RE JURY TRIAL RULES

ORDER

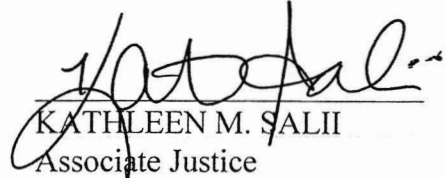
These Jury Trial Rules are promulgated by the Supreme Court of the Republic of Palau pursuant to Article X, Section 14 of the Constitution and 4 PNC § 101. They shall take effect April 30, 2010.

Dated:

4/28/10



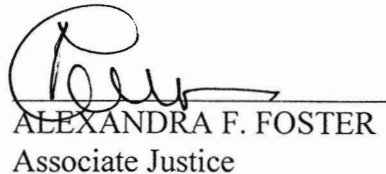
ARTHUR NGIRAKLSONG
Chief Justice



KATHLEEN M. SALII
Associate Justice



LOURDES F. MATERNE
Associate Justice



ALEXANDRA F. FOSTER
Associate Justice

**IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU**

Pursuant to the power vested in the Supreme Court by §§ 5(c) and 11 of RPPL No. 8-12, A BILL FOR AN ACT, to provide for jury trials for defendants accused of crimes punishable by a sentence of imprisonment of 12 years or more, the Supreme Court hereby issues Jury Trial Rules and Regulations to implement the Act, hereinafter, **THE PLAN**.

I. APPLICABILITY OF THE PLAN

A criminal defendant accused of crimes punishable by a sentence of imprisonment of 12 years or more shall have the right to a trial by jury in the Republic of Palau. If the defendant is entitled to a jury trial, then the trial shall be by jury unless the defendant waives the right to a jury trial in writing.

II. POLICIES AND INTERPRETATION OF THE PLAN

All criminal defendants who are entitled to a trial by jury shall have the right to have those juries selected at random from a fair cross-section of the Republic of Palau. All qualified residents of Palau shall have the opportunity to be considered for service on the juries of the Supreme Court, and shall have a corresponding obligation to serve as jurors when summoned for that purpose.

Computers and electronic data processing programs can be advantageously used for establishing the juror master list, qualifying jurors, randomly selecting jurors, maintaining juror records, and automating jury clerical work. Accordingly, all references in this Plan to juror master lists, or similar phrases, can be interpreted to mean either an electronic data processing system or device for retrieving and processing information stored in electronic database media, or manual methods, such as the random drawing of names from a jury wheel.

Further, all references in this Plan to random selection shall be interpreted to mean the selection of names of prospective jurors either from complete source databases in electronic media by a purely randomized process, or through manual methods, such as the random drawing of names from a jury wheel, both of which are meant to ensure that the mathematical odds of any single name being selected are

substantially equalized.

III. MANAGEMENT AND SUPERVISION OF THE PLAN

The Clerk of Courts (“the Clerk”) shall manage the jury selection process under the supervision and control of the Chief Justice or his or her designee. In performing the duties assigned under this plan, the Clerk may utilize the services of courtroom clerks, marshals, and computer personnel.

IV. ESTABLISHMENT OF JUROR MASTER LIST & OFFICIAL JURY PANELS

A. Source of Juror Master List

The names of persons to be considered for jury service shall be randomly selected from official voter registration lists for the Republic of Palau, which may be supplemented with names from other lists of resident persons, such as utility lists, social security numbers or licensed drivers, which the Supreme Court from time to time may designate. The Clerk shall secure such lists from appropriate State officials in the form of electronic database media.

B. Juror Master List and Official Jury Panels

The Clerk shall compile and maintain a juror master list in accordance with the above subsection. On an annual basis, the Clerk shall randomly select from the juror master list the names of as many persons as may be needed for the selection of the approximate number of jury panels needed for a given year. Each list of randomly drawn names will be known as an official jury panel.

C. Certification of Compliance

Following the initial random selection of persons for inclusion in each official jury panel, the Clerk shall require execution of an affidavit by the person in charge of performing such functions. The affidavit shall attest to the following facts: the date and manner of selection; the source and number of names in the wheel; and, that all procedures specified in this plan governing the random selection of prospective jurors have been fully adhered to in the automated phase of the selection process.

V. SELECTING JURY PANELS

A. Selection and Summoning

Once a jury trial has been set in a given case, the Clerk shall randomly select from the list of official jury panels, an official jury panel for that case. After a date certain has been set for trial, the Clerk shall issue a summons for each name on the official jury panel. The summons shall be served upon prospective jurors by the Marshals Division. Jurors shall be required to bring their juror summons with them on the day they are called.

B. Shortage of Jurors

In the event of an unanticipated shortage of available jurors, the Judge shall order additional jurors to be summoned from another official jury panel.

C. Excess Jurors

The trial judge may excuse jurors not needed as a result of an unanticipated excess in the number of jurors. The trial judge shall determine whether jurors so excused, or excused because of a cancellation of a term of court, shall be subject to recall on future panels for that same division.

VI. QUALIFICATIONS, EXEMPTIONS, EXCUSE, AND EXCLUSION

A. Procedures and Responsibility

Determination as to whether a prospective juror is qualified, is exempt, should be excluded, or should be excused from service shall be made either by the Clerk or by the trial judge in a given case. After an official jury panel has been randomly selected from the juror master list, the Clerk may perform an initial search to determine if any of the names selected may be removed on the basis of age and/or felony convictions. On the day of trial, the trial judge shall make these and other relevant determinations on the basis of the information provided by the jurors and other competent evidence in accordance with this Plan and the laws under which this Plan was adopted. If a person did not appear in response to a summons, such fact shall be noted on the Clerk's daily attendance list.

B. Qualifications For Jury Service

A person shall be deemed qualified for jury service pursuant to RPPL 8-12, Section 1(d), if that person:

- (1) is 21 years of age or older;
- (2) has not been convicted of a felony within the past five years and is not currently incarcerated; and
- (3) can read and understand both the Palauan and English languages.

C. Exemptions

A person is exempt pursuant to RPPL 8-12, Section 4(a), if that person is:

- (1) out of the Republic to attend school;
- (2) domiciled in another jurisdiction with no intent to return to Palau;
- (3) a member of the armed forces and on active duty or out of the Republic;
or
- (4) an elected official in the Republic.

D. Excused From Jury Service

Pursuant to RPPL 8-12, Section 4(c), a person may be excused from jury service indefinitely or for a particular term or terms of court if such person demonstrates that such jury service would entail serious personal hardship or for other good cause.

Unless excused indefinitely, a person excused at the time of adding persons to an official jury panel shall be returned to the juror master list where he or she will be subject to subsequent random selection when the reason for the excuse expires. Unless excused indefinitely, a person excused at the time a panel is summoned shall be summoned for service on a panel thereafter when the reason for the excuse no

longer applies.

VII. JUROR FEES & JUROR JOB PROTECTION

A. Fees

Jurors in the Supreme Court of the Republic of Palau shall receive the following fees, except as otherwise expressly provided by law:

For their actual participation as a juror in a given case, jurors shall be paid Twenty-Five dollars (\$25.00) per day, except in the case of government employees. If a juror is a government employee, that juror shall receive one day of annual leave for each day of jury service. Prospective jurors who are not chosen to sit as jurors shall not receive any payment. When necessary, meals, transportation, and juror security shall also be provided.

B. Job Protection

Pursuant to RPPL No. 8-12, Section 5(a), no employer shall deprive an employee of his or her employment, or threaten or otherwise coerce him with respect to that employment, because the employee receives a summons for jury duty, responds to that summons, serves as a juror, or attends court for prospective jury service.

When an employee has been summoned to jury duty in the Supreme Court of the Republic of Palau, he or she will be notified by personal service regarding the day, time, and location of the trial. Employers, therefore, should have sufficient advance notice to plan for the employee's absence.

Financial hardship claimed as an excuse by an individual summoned for jury duty is not usually a valid reason for the trial judge to grant release, especially if the individual is working regularly in a permanent position with a salary or set hourly rate. Unless there are some compelling reasons for that excuse, it will not be granted.

VIII. VOIR DIRE, EMPANELING THE JURY, JURY NOTES, & JURY INSTRUCTIONS

The Supreme Court shall promulgate internal jury trial guidelines, which shall contain suggested protocols for voir dire questions, empaneling the jury, how to process and handle jury notes, and jury instructions. However, it is within the discretion of the trial judge to conduct his or her trial as he or she sees fit. The internal jury trial guidelines simply represent an effort to standardize the process as much as possible within the Palau Judiciary.

Pursuant to Section 6 of RPPL No. 8-12, the court “may permit the attorneys for the parties to examine prospective jurors, or the court may itself do so. In the latter event, the court may permit the defendant and the prosecuting attorney to supplement the examination by such further inquiry as the court deems proper, or shall itself submit to the prospective jurors such additional questions by the parties, as it deems proper.”

With this in mind, attorneys shall have the right to submit proposed voir dire and jury instructions prior to the day of trial; however, it is within the discretion of the trial judge to be the arbiter of the voir dire process on the day of trial. A trial judge may ask the proposed voir dire questions or may direct the attorneys to do so. In the event that the trial judge asks the questions, should an attorney seek to ask any follow up questions, such may be done upon motion to the Court.

Attorneys shall have the right to submit proposed closing jury instructions prior to the conclusion of trial; however, the trial judge shall make the ultimate decision as to the jury instructions used by jurors during deliberations.

The term “jury notes” means notes from the jurors to the trial judge during the deliberation process, e.g., a note asking the trial judge to clarify a point of law. Jury notes do not mean the notes taken by jurors during the trial for their personal use. Notes taken by jurors during trial for their personal use are strictly confidential and will be destroyed after the conclusion of the trial. Jury notes and jury seating charts must be filed, stamped, and forwarded to the appropriate section for docketing after the jury verdict has been reached or the trial is otherwise concluded. Moreover, the Clerk will endeavor to save jury notes and jury seating charts until the case is ultimately resolved.

To the extent feasible, the following procedure shall be followed concerning jury notes:

- (1) When a jury note is received, it must be identified. To identify the note, the courtroom clerk will mark it as Jury Note #1, etc., if it has not already been identified. The case number and case title must also appear on the note.
- (2) The courtroom clerk will file stamp the jury note as of the date it is received. For each jury note, the courtroom clerk shall record in the minutes that a jury note was filed.
- (3) The courtroom clerk shall maintain the original jury note (s) until a jury verdict is reached or the trial is otherwise concluded.
- (4) Once a jury verdict is reached or the trial is otherwise concluded, the courtroom clerk shall make a copy of the jury note(s) for the trial judge's file.
- (5) The courtroom clerk shall forward the jury note(s) to the appropriate section for docketing. Once docketed, the docket clerk will forward it to the Records Section to be placed in the file.
- (6) Upon completion of the jury impanelment, the jury seating chart shall also be maintained until a jury verdict is reached or the trial is otherwise concluded. If any jurors are excused during the trial or jury deliberations and there is a change in the make-up of the jury panel, it must be reflected in the jury seating chart (for example, alternate #1 replaces juror #5, alternate #2 replaces alternate #1). The courtroom clerk will file stamp the jury seating chart as of the completion date of the trial. Then follow steps 4 and 5 above.

IX. DISCLOSURE AND CONFIDENTIALITY

A. Disclosure

This Plan is a public document and shall be made available to any person for

inspection and copying during normal business hours of the Supreme Court.

Lists of the names and other appropriate descriptive information concerning persons summoned for service as jurors are confidential and shall be made available for the public inspection and copying only at the direction of the Chief Justice.

B. Confidentiality

The contents of all other records or papers used by the Clerk in connection with the jury selection process shall not be disclosed without the express consent of the Chief Justice.

C. Preservation of Records

The Clerk shall preserve all records and papers compiled and maintained in connection with the jury selection process for a period of four years after the juror master lists are emptied and refilled, or for such longer period as may be ordered by the Chief Justice. Only upon express consent of the Chief Justice will such records be made available for public inspection for the purpose of determining the validity of the selection of any jury. After four years, such records may then be destroyed, provided the means used are such as to ensure the confidentiality of their contents.