IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

JOSHUA KOSHIBA,
Appellant,

v.

PALAU ELECTION COMMISSION, et al,
Appellee.

Cite as: 2018 Palau 1
Civil Appeal No. 17-023
Appeal from Civil Action No. 17-342

Decided: January 6, 2018

Counsel for Appellant: S.B. Nakamura
Counsel for Appellee: A. Trout, Asst. AG
                                                J. Toribiong
                                                M. Doran

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice
         JOHN K. RECHUCHER, Associate Justice
         KEVIN BENNARDO, Associate Justice

Appeal from the Trial Court, the Honorable Kathleen M. Salii, Associate Justice, presiding.

ORDER DENYING REHEARING

PER CURIAM:

[¶ 1] Appellant on January 4, 2018 filed a petition for rehearing. Appellant does not challenge our legal conclusion that a conflict exists between Koror's gubernatorial run-off election statute, KSPL No. K6-123-2001, § 4(B), and the Koror State Constitution. Rather Appellant objects to the remedy. Appellant would prefer for this Court to blind itself to the outcome of the electoral process and instead declare Eyos Rudimch the Governor of Koror. This, we will not do.

[¶ 2] A statute enjoys a presumption of validity unless it is declared otherwise. *Tulmau v. R. P. Calma & Co.*, 3 ROP Intrm. 205, 208 (1992). The run-off election statute was enacted shortly after the ratification of the

amended Koror State Constitution and was designed to ensure that each governor would be elected by a majority vote. The statute is as old as the new constitution. Given the presumption of validity, the voters of Koror State cast their ballots at the two elections under the reasonable belief that there was nothing legally wrong with the run-off election.

[¶ 3] This case involves no allegation that the voters were confused about what they were voting for at either election. Nor does it involve any allegations of coercion or fraud. The legal problem with the run-off statute is its timing. In order to achieve the purpose of ensuring that the governor is elected by a majority vote while simultaneously fulfilling the constitutional requirement that the governor is elected at the "general state election," Koror Const. art. VII, § 2, the narrowing of the field of candidates should have occurred before the general election instead of at the general election. While that was not technically done, the same result was achieved. The first election narrowed the field of candidates down to two: Rudimch and Franco Gibbons. In the second election, a majority of voters selected Gibbons as the next Governor of Koror. That result is beyond dispute. This Court's remedy – deeming Gibbons to have been elected at the general election – accomplishes the appropriate outcome.

[¶ 4] We have previously held that "[p]etitions for rehearing should be granted exceedingly sparingly, and only in those cases where this Court's original decision obviously and demonstrably contains an error of fact or law that draws into question the result of the appeal." *Espangel v. Tirso*, 3 ROP Intrm. 282, 283 (1993). We have reviewed the Petition and the authorities cited therein and find that it does not meet the high standard for granting a rehearing. Accordingly, it is ORDERED that the petition is hereby DENIED.

[¶ 5] **SO ORDERED**, this 6th day of January, 2018.