IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

JACKSON R. NGIRAINGAS,
Appellant,
v.
THE REAPPORTIONMENT COMMISSION, rep. by its Chairman, ONGERUNG KAMBES KESOLEI
Appellee.

Cite as: 2024 Palau 28
Civil Appeal No. 24-019
Appeal from Civil Action No. 24-057

Decided: October 8, 2024

Counsel for Appellant ..... Johnson Toribiong
Counsel for Appellee ..... Ernestine K. Rengiil, AG

BEFORE: OLDIAIS NGIRAIKELAU, Chief Justice, presiding
FRED M. ISAACS, Associate Justice
KATHERINE A. MARAMAN, Associate Justice

Appeal from the Trial Division, the Honorable Kathleen M. Salii, Presiding Justice, presiding.

OPINION[1]

PER CURIAM:

[¶ 1] Appellant Jackson Ngiraingas appeals the Trial Division's August 30, 2024, Order Granting Motion and Dismissing Petition, through which the Trial Division declined to review and amend the 2024 Senatorial Reapportionment

[1] We are keenly aware of the unusual timing of this opinion. In the normal course, we avoid issuing an opinion before briefing is complete. *See Techur v. Kerngel*, 2016 Palau 20. Here, however, we find no merit in any of Ngiraingas' arguments as set forth in his Opening Brief and, owing to the exigency of the situation, waiting for a response brief and a possible reply would be an exercise in futility and a waste of time. Accordingly, we have unanimously agreed to dispose of this appeal forthwith.

Plan because Ngiraingas did not present facts in support of his claim which would entitle him to relief.

[¶ 2] For the reasons set forth below, we **AFFIRM**.

BACKGROUND

[¶ 1] On July 1, 2024, the Congressional Reapportionment Commission ("CRC") published a Report on the 2024 Reapportionment Plan ("the 2024 Report") and promulgated the 2024 Reapportionment and Redistricting Plan. The 2024 Plan provides: "The Senate shall be composed of fifteen (15) members to be popularly elected in a Single Senatorial District."

[¶ 2] On August 6, 2024, Ngiraingas petitioned the trial court to review and amend the 2024 Plan. The Trial Division dismissed this Petition on August 30, 2024, stating that Ngiraingas presented no facts that would entitle him to relief as the CRC may choose to retain the same plan and does not need to make both a reapportionment and a redistricting plan.

STANDARD OF REVIEW

[¶ 3] We review a trial court's order granting a motion to dismiss de novo. *Palau Pub. Lands Auth. v. Koror State Pub. Lands Auth.*, 19 ROP 24, 27 (2011). In reviewing a motion to dismiss, we accept all allegations in the plaintiff's complaint as true and determine whether those allegations state a claim for relief. *Id.*

DISCUSSION

[¶ 4] Ngiraingas avers that the 2024 Plan violates cultural and traditional divisions in Palau by creating a single senatorial district. He suggests that the 2024 Plan needs to be amended to create either three or six senatorial districts, to balance the requirement of "one person, one vote" with cultural and traditional requirements, and to accommodate population shifts amongst the states. He also maintains that Article IX, § 4(a) of the Constitution requires the CRC to do both a reapportionment and a redistricting plan, because the Palauan version of the Constitution reads that "ea commission a kirel el otobedii a blekerdelel a bingel a beluu *ma* ildisir a remo chedal a Senate" (which effectively translates to "the commission shall publish a reapportionment *and*

redistricting plan), while the English version reads that "the commission shall publish a reapportionment *or* redistricting plan."

[¶ 5] Before addressing Ngiraingas' arguments, we turn our attention to the Opening Brief's substantial deficiencies. As we have repeatedly stated, "the burden of demonstrating error on the part of a lower court is on the appellant." *Ngetchab v. Lineage v. Klewei*, 16 ROP 219, 221 (2009). To demonstrate such error, it is incumbent upon the party asserting error to cite relevant legal authority in support of his or her argument. *Aimeliik State Pub. Lands. Auth. v. Rengchol*, 17 ROP 276, 282 (2010) ("Litigants may not, without proper support, recite a laundry list of alleged defects in a lower court's opinion and leave it to this Court to undertake the research."). We have concluded that "[u]nsupported legal arguments need not be considered by the Court on appeal." *Suzuky v. Gulibert*, 20 ROP 19, 23 (2012).

[¶ 6] In addition, all opening briefs shall contain a legal argument. ROP R. App. P. 28. This Court will not consider appeals that fail to adequately develop legal arguments. *Meyar v. Republic of Palau*, 2022 Palau 24 ¶ 5; *see also Dakubong v. Aimeliik State Gov't*, 2021 Palau 19 ¶ 11 ("The Republic of Palau Rules of Appellate Procedure and the Court's case law impose both formal and substantive requirements for adequate appellate briefing.") (*quoting Suzuky v. Gulibert*, 20 ROP 19, 21 (2012)). As we explained in *Dakubong*, "[a] legal argument is a connected series of statements intended to establish a definite legal proposition. It involves more than mere citations to a case without explaining why or how that case is relevant to the facts of the case at hand." *Id.* In order for us to consider an issue, a litigant raising it must do "more than just identify[] what the litigant believes to be a governing legal principle and list[] various facts in the records. Rather, an adequate argument is one where a litigant applies the governing law to the facts of his case." *Id.*

[¶ 7] Ngiraingas' Opening Brief is deficient in several ways. It merely quotes our precedent on reapportionment without explaining how that precedent supports its contentions; none of the authority presented bolsters Ngiraingas' arguments; and finally, some of these arguments are improperly developed. Ultimately, the brief falls exceedingly short of meeting the adequacy threshold for appellate briefing. We have "repeatedly refused to consider claims brought before [us] that are not well developed and supported

by facts on the record or law". *Aderkeroi v. Francisco*, 2019 Palau 29 ¶ 12. Thus, we would be entitled to consider Ngiraingas' arguments forfeited based on the inadequacy of the briefing.

[¶ 8] Nevertheless, we may consider issues not adequately presented on appeal when the case raises an issue of great public importance. *Republic of Palau v. Airai State Pub. Lands Auth.*, 9 ROP 201, 204 (2002). We choose to address the merits of this case because the constitutionality of the legislative process is a matter of great public importance, and because our precedent squarely resolves the issues raised.

[¶ 9] The Constitution provides that the CRC "shall publish a reapportionment or redistricting plan for the Senate based on population." Palau Const., art. IX, § 4(a). Section 4(c) further provides that if any voter timely challenges the plan via petition, "the Supreme Court shall have original jurisdiction to review the plan and to amend it to comply with the requirements of this Constitution."

[¶ 10] In essence, Ngiraingas is arguing that a single senatorial district does not adequately represent the interests of less populous states. We have in fact determined the exact opposite. The intent of Article IX is "to ensure the preservation of the 'one person, one vote' principle"; reapportionment and redistricting are means to carry out that intent in order "to account for population shifts over time." *Cong. Reapportionment Comm'n v. Bultedaob*, 2016 Palau 26 ¶ 7-8. Not only have we affirmed prior plans comprising a single senatorial district, we also found that "at-large plans do not dilute the strength of votes cast in populous districts, but rather give each vote equal weight." *Tellames v. Cong. Reapportionment Comm'n*, 8 ROP Intrm. 142, 143 (2000).

[¶ 11] As to the allegation that a single district does not respect Palau's traditional divisions, this Court's precedent is clear: "The history and nature of the Palauan nation demands that national governmental decisions respect the culture and traditions of the Palauan states" *Eriich v. Reapportionment Comm'n*, 1 ROP Intrm. 134, 143 (Tr. Div. 1984). However, we observed that the Framers "intended that Senate representation be based on a district resident population and not on traditional village association." *Id.* A single district does not offend our traditional and cultural principles, nor does our Constitution

require that some states be awarded special consideration in the reapportionment plan.

[¶ 12] Moreover, in its 2024 Report, the CRC took into account the most recent population census and the principle of "one person, one vote" when deciding to maintain the single district from 2016. It expressly discussed the propriety of a single senatorial district and determined that this system created a skilled pool of candidates, ensured a wider and collective vision for the Republic to counterbalance the individual states' aspirations, and avoided duplicating the function already served by the Delegates. *See* 2024 Report. The Constitution awards the CRC with "broad discretion in devising election schemes[,]" and the CRC merely exercised this discretion. *Cong. Reapportionment Comm'n v. Bultedaob*, 2016 Palau 22 ¶ 10.

[¶ 13] The alleged conflict between the language of the Constitution and its English translation is likewise an argument without merit. The trial court appropriately determined that when reading the Palauan and the English versions together, the proper meaning of Article IX, Section 4(a) is that the CRC must create a "reapportionment and/or redistricting plan.". *See Otobed v. Palau Election Comm'n*, 20 ROP 4, 8 (2012) ("[A] court should not lightly conclude that there is a conflict between the two versions [of the Constitution] but should rather strive, if possible, to find a single interpretation that gives effect to both."). To boot, the Constitution employs "reapportionment" and "redistrict" as interchangeable terms to designate the realignment of a legislative district's boundaries. *Bultedaob,* 2016 Palau 22 ¶ 10. As such, the CRC is not required to redefine the legislative districts every eight years in a "purely arbitrary change." *Id.* ¶ 6. The trial court did not err in dismissing the Petition.

CONCLUSION

[¶ 14] We **AFFIRM** the Trial Division's judgment.