In re Perrin, 10 ROP 132 (2003)
In the Matter of
DAVID C. PERRIN,
Appellant.

CIVIL APPEAL NO. 03-29
Disciplinary Proceeding No. 03-01

Supreme Court, Appellate Division
Republic of Palau

Decided: August 29, 2003

Counsel for Appellant: Pro se

Disciplinary Counsel: Douglas Parkinson

BEFORE: KATHLEEN M. SALII, Associate Justice; J. UDUCH SENIOR, Associate Justice Pro Tem; ROSE MARY SKEBONG, Associate Justice Pro Tem.

Appeal from Supreme Court, Disciplinary Tribunal.

PER CURIAM:

On July 11, 2003, Appellant, David C. Perrin, filed a Notice of Appeal from a decision of the Disciplinary Tribunal. This Court has held that "no appeal can be had to the Appellate Division of the Supreme Court from a Disciplinary Tribunal decision." *In re Webster*, 4 ROP Intrm. 198, 198 (1995); *see also* Disciplinary Rule 5(h) ("The decision of the Disciplinary Tribunal shall be final."). Perrin contends that *Webster* was wrongly decided because appellate jurisdiction over disciplinary tribunals is mandated by Article X, Section 6 of the Constitution, which provides that "[t]he appellate division shall have jurisdiction to review all decisions of the trial division and all decisions of lower courts."

Perrin's argument depends, at least in part, on whether a decision of a disciplinary tribunal is a decision of a "lower court." The definition of "lower court" is not supplied by Article X, Section 6. Accordingly, we must look elsewhere for assistance. Article X, Section 1 defines the judicial power of the Republic of Palau:

> The judicial power of Palau shall be vested in a unified ⊥133 judiciary, consisting of a Supreme Court, a National Court, and such inferior courts of limited jurisdiction as may be established by law. All courts except the Supreme Court may be divided geographically and functionally as provided by law, or judicial rules not inconsistent with law.

According to Article X, Section 1, the "lower courts" into which the judicial power can be vested are limited to the National Court and "such inferior courts of limited jurisdiction as

may be established by law." Examples of inferior courts of limited jurisdiction established by law include the Court of Common Pleas, created by 4 PNC §§ 206, 207, and the Land Court, created by 4 PNC § 208. Unlike these courts, the disciplinary tribunal was not established by an act of the legislature; rather, it is a creature of the Supreme Court's authority to promulgate rules governing the legal profession. *See* Palau Const. art. X, § 14. The question is whether this distinction makes a difference. From a review of Article X, Section 1, we think it does.

Significantly, the distinction between "law" and "judicial rules" is part of the very text of Article X, Section 1. While the first sentence of Section 1 provides that inferior courts of limited jurisdiction "may be established by law," the second sentence provides that the jurisdiction of these courts may be divided geographically and functionally "as provided by law, or judicial rules not inconsistent with law." This distinction signifies that only the legislature may create inferior courts of limited jurisdiction. The Supreme Court's authority over inferior courts is limited to dividing their jurisdiction geographically and functionally by judicial rule when such dividing is not inconsistent with acts of the legislature.

As a creation of the Supreme Court's exclusive constitutional authority over attorney discipline, *In re Tarkong*, 3 ROP Intrm. 37, 37 (1991), the disciplinary tribunal is not a "lower court" within the meaning of Article X, Section 6. Thus, the Appellate Division does not have authority to review its decisions. Perrin notes that in *In re Wolf*, 6 ROP Intrm. 205, 207 (1997), we stated that a claim that the lack of appellate review of disciplinary proceedings violates due process is "properly addressed to the Appellate Division." As a result of our conclusion herein, that statement is no longer correct. Accordingly, Perrin's appeal is hereby dismissed.