

*In re Kloulubak*, 1 ROP Intrm. 364 (1986)  
**IN THE MATTER OF THE ESTATE OF OBAK KLOULUBAK**  
**Deceased.**

CIVIL APPEAL NO. 8-84  
Civil Action No. 35-77

Supreme Court, Appellate Division  
Republic of Palau

Appellate opinion  
Decided: February 14, 1986

Counsel for Appellant: Johnson Toribiong  
Counsel for Appellee: Randy K. R. Schmidt

BEFORE: MAMORU NAKAMURA, Chief Justice; ROBERT WARREN GIBSON, Associate Justice; PAUL J. ABBATE, Part-Time Associate Justice.

PER CURIAM:

Appellee seeks dismissal of the appeal on grounds that Appellant has failed to file the opening brief within the time prescribed by ROP R. App. Pro., Rule 31.

Appellant pleads excusable neglect, in that “. . . oversight. . .” resulted in the omission of the due date for briefs from his 1986 calendar.

The Court takes notice from the Appeals file and FINDS that:

The record was certified and served on November 27, 1985; ROP R. App. Pro., Rule 31(b) requires filing of the Appellant’s ¶365 brief within 45 days of certification and service; that no brief has been filed to date; that Appellee’s Motion to Dismiss and an Appellant’s Motion to Extend Time were each filed on January 14, 1986 and that, applying ROP R. App. Pro., Rule 26(a), the final day for filing Appellant’s brief fell on January 13, 1986.

Taking the above facts into consideration and being mindful of this Court’s responsibility to enforce the Rules of Court it is hereby adjudged and determined that:

The Motion to Dismiss be denied and the Motion to Extend granted. It is ORDERED that Appellant file the opening brief with the Clerk of Courts by no later than 4:30 p.m., February 14, 1986 or suffer dismissal of the Appeal.

It is the further FINDING of this Court that failure to keep an accurate and timely calendar does not constitute excusable neglect and accordingly, that Appellant’s attorney, Mr. Johnson Toribiong, be sanctioned and that he is ORDERED to pay \$250.00 costs to appellee as reimbursement for time and costs in bringing this motion. Said payment to be made by no later

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than 4:30 p.m., February 18, 1986.