

In the Matter of Singeo v. ROP, 1 ROP Intrm. 378 (1987)

**IN THE MATTER OF
ETHAN O. SINGEO,
Appellant,**

v.

**REPUBLIC OF PALAU,
Respondent.**

CRIMINAL APPEAL NO. 2-85
Juvenile Case No. 21-85

Supreme Court, Appellate Division
Republic of Palau

Appellate decision
Decided: April 2, 1987

Counsel for Appellant: Johnson Toribiong
Counsel for Respondent: Eric Basse, AAG

BEFORE: MAMORU NAKAMURA, Chief Justice; LOREN A. SUTTON, Associate Justice,
EDWARD C. KING, Associate Justice.

SUTTON, Justice:

Appellant was the subject of a juvenile information alleging that he committed an act of Murder in the Second Degree when he struck a classmate on the head with a rebar killing him. Appellant's birth date is October 6, 1968. He was 1379 16 years of age at the time of the offense (September 26, 1985) and 17 years of age at the time of the Order appealed from (November 1, 1985), which waived juvenile Court jurisdiction and transferred the matter to the Trial Division of the Supreme Court, Republic of Palau for prosecution under the general laws.

In arriving at that decision the juvenile judge had evidence before him in Defendant's Exhibit "A" that the minor had a condition labeled "Conversion Disorder" which caused epileptic-like seizures and which resulted in severe limitation of the minor's functioning at home, school and in other social situations. (Psychiatric Evaluation Report prepared in January 1985 [eight (8) months prior to the offense] by Edward Merves, M.D., Chief, Child and Adolescent Psychiatry Service, Tripler Army Medical Center, Hawaii). This report contained the recommendation that the minor be placed in an intensive in-patient evaluation and treatment program on an adolescent psychiatric unit.

Two local medical practitioners testified and each essentially agreed with the findings of Dr. Merves.

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The Court, based upon the above evidence found that the minor's disorder caused him social embarrassment and criticism of an intensity that one who was overweight might receive.

The Court also received a Probation Report containing **¶380** largely statistical information concerning the minor's parentage, legal record (none), religious preference, etc.

The Court found, based upon this evidence, that the minor possessed the mental and physical maturity of an average person of his age in the community.

Appellant contends that the waiver of jurisdiction was error as not in compliance with 15 TTC § 1.¹

15 TTC § 1 is one of six (6) sections now recodified in Title 34 PNC with no substantive changes which represent the entirety of statutory law in the Republic of Palau regarding juvenile delinquency.

The Court is bound, in compliance with these statutes, to adopt a flexible procedure looking to U.S. Juvenile Courts and their practices for guidance.²

¶381 The sole question before the Court is: whether or not the juvenile judge correctly exercised his discretion as mandated by 15 TTC § 1 when he waived jurisdiction based solely upon the findings that the minor possessed average mental and physical maturity for a person his age in the community and the concern that only 10 months remained of juvenile jurisdiction and that this was an insufficient period in which to rehabilitate the minor.

We HOLD that he did not. It is clear in the brief set of statutes governing juvenile law and procedure in Palau that offenders under the age of 18 years are subject to juvenile Court jurisdiction and possess a right to such protections as may exist therein. We FIND that such protections are designed for those persons of average and below average physical and mental maturity within those chronological limits and that a waiver of juvenile jurisdiction requires a finding that some deviation from the average is present such that the minor cannot benefit from treatment as a juvenile. We FIND further that the finding of the lower Court respecting the minor's level of physical and mental maturity supports, in law and reason, exactly the opposite conclusion than that reached.

¹ 15 TTC § 1 has since been recodified in the Palau National Code and appears there with no substantive change as 34 PNC § 6102(b).

² The Court notes that this statutory guideline is of little help given the diversity and number of juvenile jurisdictions in the U.S. and differing lines of authority on such questions as: At what point does jurisdiction rest? Upon the offender's age at the time of the offense or when he/she is brought before a Court? Given the absence of any treatment or rehabilitation programs in the Republic of Palau for juvenile offenders does the parens patriae philosophy underlying juvenile law and procedure in the U.S. have any applicability at all in Palau? Such questions should be addressed to the Legislature in the hope that a statutory scheme for the handling of juvenile offenders may be constructed.

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It is also our conclusion that the Court's comment re only 10 months of jurisdiction remaining was an influential factor in the Court's decision to waive jurisdiction. There is no statute or other authority in the Republic of Palau which **¶382** enables such a finding to serve as the underpinning for a waiver of juvenile jurisdiction.

Accordingly, the decision of the juvenile court waiving jurisdiction is Reversed.

Given the absence of statutory guidance re the limits of juvenile jurisdiction we make no orders nor have we any grounds at this point to advise the lower Court as to the proper steps to take hereafter. That issue is not now before us.

Remanded to the juvenile Court for further proceedings.