

College of Micronesia v. Udui, 1 ROP Intrm. 397 (1987)
COLLEGE OF MICRONESIA
Plaintiff/Appellee,

v.

FELICIANO UDUI,
Defendant/Appellant.

CIVIL APPEAL NO. 17-86
Civil Action No. 78-85

Supreme Court, Appellate Division
Republic of Palau

Opinion

Decided: April 24, 1987

Counsel for Appellant: Philip D. Isaac, AAG

Counsel for Appellee: Fredrick L. Ramp

BEFORE: MAMORU NAKAMURA, Chief Justice; ROBERT W. GIBSON, Associate Justice;
ARTHUR NGIRAKLSONG, Associate Justice.

NGIRAKLSONG, Justice:

This is an appeal from a Memorandum Decision on Appellee College of Micronesia's Motion for Summary Judgment by the Trial Division of the Supreme Court, Republic of Palau.

In a June 25, 1984, letter to the Palau Attorney General, Appellant Feliciano Udui asked if the Appellee College of Micronesia is subject to the requirements of the Protection of Resident Workers Act "30 PNC § 101, et seq." The Attorney General's Office responded in a June 27, 1984, letter stating that "30 PNC" does apply to the Appellant College of Micronesia.

¶398 On May 15, 1985, the Appellee College of Micronesia filed a complaint for Declaratory and Injunctive Relief. Appellant answered and moved for judgment on the pleadings on July 15, 1985. Appellee College of Micronesia filed opposition papers and moved for Summary Judgment. The trial court on September 23, 1985, entered its Memorandum Decision in favor of the Appellee College and against the Appellant. The trial court found that "30 PNC", Protection of Resident Workers Act, and "22 PNC § 301", which established the College of Micronesia as a public corporation, were irreconcilably inconsistent. The trial court concluded that given the conflict between the two statutes, 22 PNC § 301 being later in time of enactment prevails. This appeal followed: Appellant appeals on two grounds:

(1) Appellee College of Micronesia is not exempt from the application of 30 PNC because appellee is not an "agency", of the National Government.

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(2) Appellant contends that the Congress of Micronesia in enacting “30 PNC” (1969) intended the Act to apply to the College of Micronesia established in 1977.

30 PNC § 103(c) exempts from its application “. . . any branch or agency of the National Government.” It is clear that the College is not a “branch” of the National Government. Is the College an “agency” of the National Government as to be exempt from the requirements of “30 PNC”?

30 PNC does not define “agency”. That being the case, this Court presumes the common and judicially settled meaning of the word “agency”. *United States v. Merriams*, 44 S.Ct. 69, (1923). The corollary to this presumption is that had the Congress of Micronesia intended a limited **L399** meaning of the word “agency”, it would have so defined the word specially. The Congress of Micronesia did not.

The standard definition of government agency includes public corporation.

“A subordinate creature of the sovereign created to carry out a government function. Frequently, a political sub-division or corporation.” Blacks Law Dictionary, 4th Ed. (emphasis supplied).

Government “agency” has also been defined by statute. Section 451, Title 28 of the United States Code defines government agency as:

Government agency includes any corporation in which the United States has a proprietary interest. 28 U.S.C. § 941.

Further, the Federal Tort Claims Act also defines government agency as:

. . . corporation whose primary function is to act as instrumentalities or agencies of the United States. 28 U.S.C. § 941.

This Court concludes that government agency includes a public corporation which functions as an instrumentality of the government.

The College of Micronesia is an agency of the government 22 PNC § 301. It is also a public corporation. *Id.* It performs the traditional government role of providing higher education. It is financially supported essentially 100% by the government. See Exec. Dir. Aff. para. 5. Its governing Board is selected by government appointment. 22 PNC § 311.

At its inception, the College was mandated to decide how government scholarship money was to be spent. It was mandated to select scholarship recipients not only for scholarship to the College of **L400** Micronesia but to all institutions of higher learning. 22 PNC (9), (7) and (1).

This Court concludes that the College of Micronesia for the purpose of the Protection of

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Resident Workers Act, 30 PNC, is a government agency. As such, the College of Micronesia is exempt from the requirements of “30 PNC”. The decision of the trial court, therefore, is affirmed.

Having reached the same decision as did the trial court on independent grounds, we, do not find it necessary to address the conflict issue, if any exists, between 30 PNC and 22 PNC § 301.