

Tmetuchl v. Palau National Election Commission, 1 ROP Intrm. 548 (1988)

**ROMAN TMETUHL,
Petitioner/Appellant,**

v.

**THE PALAU NATIONAL ELECTION
COMMISSION,
Respondent/Appellee.**

CIVIL APPEAL NO. 25-88
Civil Action No. 988-88

Supreme Court, Appellate Division
Republic of Palau

Appellate decision

Decided: December 30, 1988

Counsel for Appellant: Johnson Toribiong

Counsel for Appellee: Philip D. Issac

BEFORE: LOREN A. SUTTON, Associate Justice; ARTHUR NGIAKLSONG, Associate Justice; ROBERT HEFNER, Associate Justice.

PER CURIAM:

The Judgment of the Trial Court entered December 20, 1988, denying the Motion and Cross Motion for Summary Judgment and granting Defendant's Motion to Dismiss, is AFFIRMED.

We FIND that the Trial Court Decision limiting jurisdiction to two of the issues raised by Appellant is correct.¹

1549 As to the other allegations and issues raised by Appellant in the Trial Court and now presented for review on appeal, we agree that they were not presented to the Commission in compliance with 23 PNC § 1571.² These issues were therefore not properly before the Commission and notwithstanding the fact that The Commission rendered findings thereupon they were also outside the jurisdiction of the Trial Court. Likewise, though comments and

¹ The alleged Imeong ballot box irregularity and the alleged fraud and errors at the Guam polling place.

² These additional issues were: photocopied ballots at Saipan, failure to bind ballots in lots of 100, refusal to accept absentee ballots received after November 9, 1988, and, the Commission's failure to clarify the November 1, 1988, election date with regard to the international dateline.

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judgments were rendered by the Trial Judge on these issues, we FIND that the review of such is outside the jurisdiction of this Court.

Although we decline to discuss any of the alleged irregularities not properly brought before the Election Commission (23 PNC § 1571), it does appear to us that there are certain suggestions and recommendations that the Commission can make to the Olbiil Era Kelulau which, if implemented, will avoid problems in future elections. The areas that we feel need study and reform in order to make the election process more efficient are: The time period that a registered voter outside of Palau has to request an absentee ballot (23 PNC § 1523); clarification of the day (date) on which the election occurs with attention to differing time zones (23 PNC § 1524); consideration of the potential for problems which exists when polling places outside of Palau are provided (23 PNC § 1526); **L550** provision for an adequate time period for the entire procedural process between the date of the election and the date that successful candidates are sworn in to office (23 PNC § 1524).