

*Gaag v. ROP*, 2 ROP Intrm. 199 (1991)  
**ANTONIO GAAG aka TONY GAAG,**  
**Appellant,**

v.

**REPUBLIC OF PALAU,**  
**Appellee,**

CRIMINAL APPEAL NO. 1-91  
Criminal Case No. 236-90

Supreme Court, Appellate Division  
Republic of Palau

Appellate decision re application for release/stay pending appeal  
Decided: March 5, 1991

Counsel for Appellant: John K. Rechucher

Counsel for Appellee: Richard Brungard

BEFORE: MAMORU NAKAMURA, Chief Justice; LOREN A. SUTTON, Associate Justice;  
ARTHUR NGIRAKLSONG, Associate Justice.

SUTTON, Associate Justice:

This matter returns to us for decision after remand to the trial court with instructions to reconsider the Application For Release/Stay Pending Appeal and to comply with ROP R. App. Pro. 9(b) if the application is denied.

The trial judge has denied the application for release/stay pending appeal and in compliance with ROP R. App. Pro. 9(b) has filed his reasons for doing so in writing on March 1, 1991.

It is that RULING and ORDER which we now review.

Guidelines for exercise of discretion by the court on this issue are found in ROP R. Crim. Pro. 46 (c).

The trial judge found that the Defendant/Appellant was a danger to the community and that it would not be possible to **L200** fashion conditions of release that would insure the safety of others in the community. RULING and ORDER, *supra*.

We can not determine that these findings of fact by the trial judge are clearly erroneous considering that it was in that court where the trial judge had opportunity to observe the

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demeanor and other aspects of behavior and personality of the Defendant/Appellant. Though we might have weighed the evidence on this issue differently if sitting as the trier of fact we cannot find that the interpretation placed by the lower court upon the evidence before it and upon observations directly made of Defendant/Appellant is unreasonable or clearly erroneous.

*Helgenberger v. T.T. of The Pacific Islands* , 4 TTR 530, 535 (Crim. App. No. 27, App. Div., Hi. Ct., Sept. 24, 1969); *Yamishiro v. T.T. of The Pacific Islands* , 2 TTR 638, 643 (Crim. App. No. 18, App. Div., Hi. Ct., Feb. 18, 1963); 14 PNC Sec. 604; ROP R. Civ. Pro. 52.

Accordingly, the decision of the trial court on application for release/stay pending appeal is affirmed.