

*Gaag v. ROP*, 2 ROP Intrm. 197 (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 order re application for stay of execution of sentence pending appeal  
Decided: February 28, 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

ROP R. App. Pro. 9(b) requires that if the trial judge denies an application for stay/release pending appeal after a judgment of conviction the reasons for the denial shall be stated in writing.

Here, the trial court failed to follow that mandate and instead simply made reference to the Memorandum of Judgment issued on November 24, 1990. We assume that by doing so the trial judge was referring to the serious nature of the crime for which Defendant was convicted as his criterion for denial since no other information is contained in the Memorandum of Judgment which sheds light upon other criteria required by ROP R. Crim. Pro. 46 (a) (1) & (2) and Rule 46 (c).

A reading of ROP R. App. Pro. 8 & 9 and of ROP R. Crim. Pro. 38 and 46 convinces us that upon an application for release and/or stay pending appeal it is not our task to initially **1198** consider the requirements of Rule 46, ROP R. Crim. Pro. but rather to review the findings of the trial court which have been made pursuant to Rule 46 guidelines.

Accordingly, we remand this matter to the trial court and direct the trial court judge to comply with the provisions of ROP R. App. Pro. 9(b) by no later than 12 noon, March 1, 1991.

If upon review of the guidelines contained in ROP R. Crim. Pro. 46 the trial judge grants the application for stay/release, this appeal shall be dismissed.

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If otherwise, we shall take the matter under submission as of the filing of reasons for denial by the trial judge and rule without further hearing.