

A.J.J. Enterprises v. Uchel, 3 ROP Intrm. 69 (1992)

**A.J.J. ENTERPRISES,
Appellee,**

v.

**ONGALIBANG UCHEL,
Appellant.**

CIVIL APPEAL NO. 29-91
Civil Action No. 281-91

Supreme Court, Appellate Division
Republic of Palau

Order denying motion to dismiss
Decided: February 20, 1992

Counsel for Appellant: Moses Uludong, T.C.

Counsel for Appellee: David Shadel

BEFORE: LOREN A. SUTTON, Associate Justice; ROBERT A. HEFNER, Associate Justice;
and ALEX R. MUNSON, Associate Justice

PER CURIAM:

BACKGROUND

On October 29, 1991, appellee filed this motion to dismiss pursuant to ROP Appellate Rule 31 requesting that the appeal be dismissed for failure to timely file appellant's opening brief. According to appellee dismissal is warranted because "[a]ppellant has failed to prove, or even suggest, that he has any good cause for having file [sic.] to its brief within 45 days of his Notice of Appeal." (Appellee's Memorandum Supporting Dismissal, p.2).

On February 14, 1992, counsel for Appellant, Mr. Uludong, filed a Motion for Continuance of the hearing scheduled for appellee's Motion to Dismiss. We deny the Motion to Continue. However, we conclude that the decision on appellee's motion is so straightforward and compelled by the facts, that further oral argument could not affect the result. Rather than continuing this matter, we shall therefore issue our decision upon the briefs and supporting documents submitted by the parties.

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ANALYSIS

Appellee invites us to analyze its motion pursuant to the burgeoning body of case law addressing the failure of parties to meet appellate deadlines. This is a simple matter, however, and no complex analysis is required. ROP Appellate Rule 31 gives the Court discretion to dismiss an appeal for failure to timely file an opening brief. When an appellant shows good cause or excusable neglect for failing to timely file, the Court may refuse to dismiss the appeal. *Ramon v. Umedib*, 1 Intrm. Rptr. 563 (1989); *Nolan v. Todong*, ____ Intrm. Rptr. ____ (July, 1991).

The Appellate Rules of Procedure are part of our overall system which has justice as its goal. They recognize that the orderly disposition of appeals is necessary to the aims of justice, but at the same time allow room for the Court to recognize that events do occur that eclipse the importance of filing deadlines. The events set forth in Appellant's Affidavit constitute good cause for appellant's failure to timely file his opening brief and appellees Motion to Dismiss is, therefore, DENIED.