

Emaudiong v. Arbedul, 4 ROP Intrm. 200 (1994)

**BOISEK EMAUDIONG,
Appellant,**

v.

**ESPANGEL ESEBEI ARBEDUL,
Appellee.**

CIVIL APPEAL NO. 2-94
Civil Action 559-89

Supreme Court, Appellate Division
Republic of Palau

Order

Decided: May 12, 1994

BEFORE: JEFFREY L. BEATTIE, Associate Justice; LARRY W. MILLER, Associate Justice;
PETER T. HOFFMAN, Associate Justice

PER CURIAM:

Appellant Boisek Emaudiong has moved to waive the cost of preparing the transcript of the hearing on plaintiff Arbedul's motion for partial summary judgment. ¹ After due consideration, Emaudiong's motion is DENIED.

While we are appreciative of the burden that paying for the transcript will place on Emaudiong's limited financial resources, we must nevertheless note that he is not the only appellant facing such monetary constraints. The Judiciary simply does not have sufficient funds to pay the transcription fees for appellants in civil cases who, like Emaudiong, have limited resources to press their appeal.²

¶201 Even were there funds available for the payment of transcription fees for indigents in civil cases, the Court would still deny Emaudiong's motion because he has not met his burden of demonstrating that the transcript he is requesting is necessary to the resolution of this appeal. The proceeding Emaudiong seeks to transcribe consists solely of arguments of counsel on the motion for partial summary judgment and the trial court's ruling thereon, which was later

¹ Emaudiong should have made his motion to proceed in forma pauperis in the trial court. See ROP R. App. Pro. Rule 24(a). In the interest of judicial economy, we will address the merits of the motion now rather than dismissing it for this procedural reason.

² The Judiciary is allotted a certain amount each year to cover the cost of court appointed counsel in criminal cases. The Court will not draw from this account to pay for transcription costs in civil matters since doing so would imperil indigent defendants' constitutional right to counsel. Contrary to Emaudiong's argument, appellants in civil cases have no constitutional right to a waiver of transcript fees.

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memorialized in the trial court's Decision and Order disposing of the case. We are confident that the trial court's decision to grant summary judgment is subject to a full and fair review on the record as it now stands. Absent some assertion that counsel engaged in some prejudicial impropriety in presenting the motion for summary judgment, the arguments of counsel before the trial court in a summary judgment hearing are simply not relevant on appeal.

Emaudiong has, in the alternative, requested to pay the transcript costs in installments. We grant this motion, and give Emaudiong ninety days from the date of this Order to complete payment. Emaudiong is also free to amend his designation of the record to exclude the transcript of the partial summary judgment hearing and to therefore allow the appeal to go forward without it.