

ROP v. Blailes, 4 ROP Intrm. 29 (1993)
REPUBLIC OF PALAU,
Plaintiff,

v.

NORMAN BLAILES, et al.,
Defendant.

CRIMINAL APPEAL NO. 3-92

Supreme Court, Appellate Division
Republic of Palau

Decision and order

Decided: November 22, 1993

BEFORE: JEFFREY L. BEATTIE, Associate Justice

Appellant Norman Blailes' Motion for Stay of Execution of Sentence and Release Pending Appeal is denied.

Initially, the Court notes that Blailes is not entitled to a hearing on his application for release pending appeal. The rule upon which the application is based does not require a hearing. *See* ROP App. Pro. Rule 9(b). Furthermore, courts applying the United States appellate procedure rule upon which the Rule 9(b) is based have held that an applicant is not entitled to a hearing as long as the same judge who presided at the defendant's trial also hears the motion for release pending appeal. *See e.g. United States v. Bynum*, 344 F. Supp. 647, 649 (S.D.N.Y. 1972) ("[T]here is no indication . . . that Congress intended post conviction bail proceedings to evolve into independent 'trials' when the judge who conducted the trial and heard the evidence is satisfied that the conditions requiring detention exist."); *United States v. Porter*, 297 F. Supp. 1117, 1118 (D.C.D.C. 1969) (no hearing required on post-conviction motions for release pending appeal).

130 In the present case the trial court judge satisfied Criminal Rule 9(b) by stating in writing the reasons he denied Blailes' motion for release pending appeal. The trial court determined that Blailes, who was convicted of attempted murder in the second degree, would pose a danger to others in the community if he were released. The trial court based this determination on a variety of factors, including Blailes' lack of remorse, his failure to appreciate the gravity of his crime, his admitted propensity to be influenced by peers, the absence of familial support or supervision, and his demonstrated lack of control.

The trial court's determination that Blailes' release would pose a danger to the community is entitled to great deference. *Ramarii v. Republic of Palau*, Crim. App. No. 3-93, Slip Op. at 3 (October 5, 1993). Blailes has not presented this Court with any good reason to reverse the trial court's decision. Thus, that decision should stand.

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Blailes' motion for release pending appeal is DENIED.