

Ngara-Irrai Traditional Council of Chiefs v. Airai State Government, 5 ROP Intrm. 234 (1996)
NGARA-IRRAI TRADITIONAL COUNCIL OF CHIEFS, et al.,
Appellants,

v.

AIRAI STATE GOVERNMENT, et al.,
Appellee.

CIVIL APPEAL NO. 2-96
Civil Action No. 337-91

Supreme Court, Appellate Division
Republic of Palau

Order

Decided: June 20, 1996

The Appellants' opening brief was due no later than May 28, 1996. When they failed to file an opening brief by that date, the Appellee moved to dismiss the appeal for failure to prosecute. The Appellants have responded to that motion and ask for an extension of time in which to file their opening brief.

"It is the responsibility of appellate counsel to prosecute their appeals" *Kamiishi v. Han Pa Constr. Co.*, 5 ROP Intrm. 135, 136 (1995). "In order to constitute good cause or excusable [1235] neglect" for failing to file a timely brief, "counsel must establish something more than the normal (or even reasonably foreseeable but abnormal) vicissitudes inherent in the practice of law." *Tellei v. Ngirasechedui*, 5 ROP Intrm. 148, 150 (1995).

The Appellants' counsel concedes that he has failed to prosecute this appeal properly. He states that this was merely a matter that "fell through the cracks." This is insufficient to show good cause or excusable neglect. Under ROP R. App. P. 31(c), this Court has the discretion to dismiss an appeal if an opening brief is not filed in a timely manner. In the interests of justice, however, this Court chooses to deny the motion to dismiss the present appeal. Instead, the Court imposes a monetary sanction of \$500 upon the Appellants' counsel for his failure to file a timely opening brief. See *Sato v. Ngerchelong State Assembly*, Civil Appeal No. 37-95 (March 7, 1996) (\$500 sanction imposed for similar transgression). The Appellants' motion for an extension of time to file their opening brief is granted. The Appellants shall file their opening brief no later than 30 days from the date of this Order.