

ROP v. Titiml, 8 ROP Intrm., 207 (2000)  
**REPUBLIC OF PALAU,**  
**Plaintiff-Appellee,**

v.

**RUDIMCH J. TITIML,**  
**Defendant-Appellant.**

APPEAL NO. 00-13  
Special Proceeding No. 00-02

Supreme Court, Appellate Division  
Republic of Palau

Decided: June 27, 2000

Counsel for Appellant: Moses Uludong

Counsel for Appellee: Michael J. Rosenthal, Special Prosecutor

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; R. BARRIE MICHELSEN, Associate Justice; DANIEL N. CADRA, Senior Land Court Judge.

PER CURIAM:

On May 4, 2000, Appellee filed a Motion to dismiss the instant appeal on the grounds that it is premature because the Trial Division had entered an order to enforce a subpoena, but had not made a finding as to contempt. Appellant filed an Opposition to that Motion on June 6, 2000. While the Motion and Opposition were pending, the Trial Division on June 9, 2000, entered an Order finding Appellant in contempt, but staying the imposition of sanctions pending the resolution of this appeal.<sup>1</sup>

A finding of contempt, however, is not a final, appealable order until a sanction or sentence is imposed.<sup>2</sup> Appellant's Opposition does not identify any grounds for deviating from

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<sup>1</sup> The stay is conditioned upon Appellant's prompt prosecution of this appeal.

<sup>2</sup> See *Forschner Group, Inc. v. Arrow Trading Co.*, 124 F.3d 402, 410 (2d Cir. 1997) ("an order adjudging a party in contempt unaccompanied by sanctions is not final and therefore not appealable"); *In re Fugazy Express, Inc.*, 982 F.2d 769, 775 (2d Cir. 1992) ("an order finding a party in contempt is not final until after the sanction has been determined"); *In re Eskay*, 122 F.2d 819, 824 (3d Cir. 1941) ("nor will an appeal lie from an order adjudging a party in contempt, but reserving the question of punishment for further consideration . . . . There having been no sentence . . . the appeal must be dismissed"); 15B Wright & Miller *Federal Practice & Procedure* § 3917 at 378-79 (1991) (a contempt determination "is not final if the question of sanctions is postponed. An adjudication of criminal contempt does not become final until sentence is imposed").

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this well-established rule.<sup>3</sup> Accordingly, Appellee's motion to dismiss this appeal as premature is GRANTED. The appeal is DISMISSED without prejudice to the filing of an appeal upon the entry of a final order.

In light of the foregoing, Appellant's June 15, 2000, motion seeking an extension of the time for filing his opening brief in this appeal is DENIED as moot.

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<sup>3</sup> A few cases in the Second Circuit have held that "only a citation for contempt, not the imposition of sanctions, is necessary for appellate review." *In re Three Grand Jury Subpoenas*, 847 F.2d 1024 (2d Cir. 1988); accord *Dove v. Atlantic Capital Corp.*, 963 F.2d 15, 18 (2d Cir. 1992). However, even these cases acknowledge that requiring the imposition of sanctions or sentence before appeal "makes sense." *Dove*, 963 F.2d at 18. We agree, and decline to follow the minority view.