

Flaga v. ROP, 8 ROP Intrm. 79 (1999)
MARYANNE FLAGA,
Appellant,

v.

REPUBLIC OF PALAU,
Appellee.

CRIMINAL APPEAL NO. 98-03
Criminal Case No. 233A-97

Supreme Court, Appellate Division
Republic of Palau

Decided: December 1, 1999¹

Counsel for Appellant: Scott Ciment

Counsel for Appellees: John J. Rice, Assistant Attorney General

BEFORE: JEFFREY L. BEATTIE, Associate Justice; LARRY W. MILLER, Associate Justice;
R. BARRIE MICHELSEN, Associate Justice.

PER CURIAM:

Appellant received a sentence of 25 years imprisonment without work release and a \$50,000 fine for the offense of importing methamphetamine in violation of 34 PNC § 3301(d). The sole issue raised on appeal is whether the fine is excessive.

Our decision in *Gotina v. ROP*, 8 ROP Intrm. 65 (1999), controls the disposition of this appeal. In *Gotina* we affirmed the imposition of fines of \$10,000 and \$25,000 **180** for unlawful fishing in violation of 27 PNC § 181. Appellants claimed that the fines violated the Excessive Fines Clause of the Palau Constitution, *see* art. IV, sec. 10 (“... excessive fines are prohibited”), because appellants were indigent and could not pay the substantial fines. *Id.* We rejected this argument. We held that fine can only violate the Excessive Fines Clause if the fines bears no relationship to “the gravity of the offense that it is designed to punish.” *Id.* at 66 (quoting *United States v. Bajakajian*, 118 S.Ct. 2028, 2033 (1998)). We determined that, while appellants might assert their inability to pay as a defense to the government’s attempts to collect the fine, their ability to pay had no bearing on the constitutionality of the fine. *Id.* at 67.

Appellant does not claim that a \$50,000 fine is disproportionate to the offense of importing methamphetamine. Appellant claims that the fine is constitutionally excessive solely for the reason that, being indigent and denied work release for a long term of imprisonment, she

¹ We have reviewed the briefs and record and find this case suitable for resolution without oral argument pursuant to ROP R. App. Pro. 34(a).

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cannot reasonably be expected to be able to pay the fine. Like the *Gotina* appellants, appellant has filed to raise a cognizable challenge to the fine under the Excessive Fines Clause. The fine is not constitutionally excessive merely because appellant may prove unable to pay the fine. Accordingly, we AFFIRM the judgment of the trial division.