IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

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SUPREME COURT
OF THE REPUBLIC OF PALAU

OBAK GUSTAV NGOTEL and 15TH KELULUL A KIULUUL Appellants, v. RUSSELL MASAYOS, Appellee.	CIVIL APPEAL NO. 16-003 (Civil Case No. 14-141) **ORDER DISMISSING APPEALS**

Decided: April 28, 2016

Counsel for Appellant Obak Gustave Ngotel:	Pro Se
Counsel for Appellant 15th Kelulul A Kiuluul:	J. Roman Bedor
Counsel for Appellee:	Rachel A. Dimitruk

BEFORE: LOURDES F. MATERNE, Associate Justice; C. QUAY POLLOI, Associate Justice Pro Tem; and HONORA E. REMENGESAU RUDIMCH, Associate Justice Pro Tem.

Appeal from the Trial Division, the Honorable KATHLEEN M. SALII, Associate Justice, presiding.

PER CURIAM:

On February 9, 2016, pro se Appellant Obak Gustav Ngotel filed his notice of appeal, and, on February 18, 2016, Appellant 15th Kelulul A Kiuluul ("15th KAK") filed its notice of appeal. Following the filing of their notices of appeal, neither of the Appellants received audio recordings of the case below because no hearings of substance occurred. In the course of responding to a previous order, the 15th KAK advised that "the case has been settled whereby plaintiff/appellee Russell Masayos had been allowed to

take his seat in the Kelulul A Kiuluul and is now a member of the Kelulul A Kiuluul." Response ¶ 5 (March 24, 2016).

In an omnibus order entered March 30, 2016, the Court noted that none of the ROP R. App. P. 42 prerequisites for voluntary dismissal of the 15th KAK's appeal had been met and that it was not clear from its response whether the 15th KAK intended to continue pursuing its appeal. Accordingly, the Court ordered the 15th KAK to respond to the omnibus order on or before April 8, 2016, explaining whether it intended to pursue its appeal. Likewise, noting that Ngotel had filed his notice of appeal in his capacity as a member of the Kelulul A Kiuluul, the Court ordered Ngotel to respond to the omnibus order by the same deadline, explaining whether he intended to pursue his appeal. Lastly, the Court noted that that the order and judgment appealed by Appellants resolved a dispute as to whether Appellee Russell Masayos was qualified for the office to which he had been elected. Accordingly, the Court directed the parties to proceed under the expedited briefing schedule set forth in ROP R. App. P. 31(d).

The 15th KAK did not respond to the Court's omnibus order. Although Ngotel timely responded to the omnibus order on April 8, 2016, he did not file an opening brief or seek an extension of time in which to do so. On April 12, 2016, the Court entered an order to show cause, noting that Ngotel's opening brief was due by February 24, 2016, and that the 15th KAK's opening brief was due by March 4, 2016, and directing Appellants to show cause by April 19, 2016, why their appeals should not be dismissed

for failure to prosecute or pursuant to ROP R. App. P. 31(c). The Court warned that failure to respond to the show cause order could result in dismissal without further notice.

The 15th KAK has not responded to the April 12, 2016, show cause order, has not filed its opening brief within the time prescribed by Rule 31(d), and has not moved for an extension of time in which to file the brief. Although Ngotel timely responded, his response states only his reasons for pursuing the appeal and offers no explanation for his failure to timely file his opening brief, which he has still not submitted.[1]

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[1] In his response, Ngotel requests the Court "to allow the brief to be filed by 30th day of April 2016, as [he] will be having an[] emergency trip going off island." Response ¶ 5 (April 15, 2016). We are cognizant of our duty to construe Ngotel's pro se filings liberally. *See Kee v. Ngiraingas*, 20 ROP 277, 282 n.6 (2013); *Ikluk v. Koror State Public Lands Authority*, 20 ROP 128, 131 (2013); *Mikel v. Saito*, 20 ROP 95, 100 n.2 (2013). Nonetheless, a civil litigant's pro se status, does not grant him a license to ignore the rules of procedure generally applicable to all civil litigants, whether pro se or represented. *See McNeil v. United States*, 508 U.S. 106, 113 (1993). A request for an extension of time, like nearly all requests for relief in an appeal, must be made by motion. *See* ROP R. App. P. 26(a). Ngotel's request was not made by motion, and we decline to entertain it. We note that, even if we entertained the request, we would deny it, as Ngotel has fallen far short of showing that the delay in filing his opening brief was the result of extraordinary circumstances. *See* ROP R. App. P. 31(d).

ROP R. App. P. 31(c) provides: "If an appellant fails to file a brief within the time provided by this rule, or within an extended time, an appellee may move to dismiss the appeal, or the Appellate Division may so dismiss on its own motion." ROP R. App. P. 31(c); *see Estate of Masang v. Marsil,* 13 ROP 1, 2 (2005). Accordingly, the Court **DISMISSES** these appeals for Appellants' failure to comply with Rule 31 and for lack of prosecution of this matter. *See Palau Red Cross v. Chin*, 20 ROP 40 (2012).

So ORDERED, this 28th day of April, 2016.

LOURDES F. MATERNE
Associate Justice

C. QUAY POLLOI
Associate Justice Pro Tem

HONORA E. REMENGESAU RUDIMCH
Associate Justice Pro Tem