

**IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION**

<p>BURTON WENTY, <i>Appellant,</i> v. REPUBLIC OF PALAU, <i>Appellee.</i></p>

Cite as: 2026 Palau 5
Criminal Appeal No. 26-001
Appeal from Criminal Case No. 25-103

Decided: April 1, 2026

Counsel for Appellant	Vameline Singeo
Counsel for Appellee	Lavinia David, AAG

BEFORE: FRED M. ISAACS, Associate Justice, presiding
DANIEL R. FOLEY, Associate Justice
KEVIN BENNARDO, Associate Justice

Appeal from the Trial Division, the Honorable Kathleen M. Salii, Presiding Justice, presiding.

OPINION

PER CURIAM:

[¶ 1] Appellant Burton Wenty (hereinafter, “Appellant”) is appealing his remand to custody and revocation of bail as a result of his failure to comply with his conditions of release. For the reasons set forth below, we **AFFIRM**.

BACKGROUND

[¶ 2] Appellant was charged with two counts of Trafficking a Controlled Substance, two counts of Possession of a Controlled Substance, one count of Possession of Firearm, and eight counts of Possession of Ammunition. On December 15, 2025, Appellant appeared for initial appearance and

arraignment. The trial court subsequently imposed bail of \$100,000.00 cash, and listed Appellant's pre-trial conditions in its December 15, 2025 Remand/Release Order.

[¶ 3] The trial court included additional pre-trial conditions in its Modification of Conditions of Pre-Trial Release on Bail, filed on December 17, 2025. The additional pre-trial conditions required Appellant to (1) maintain a curfew of 6:00 p.m. to 6:00 a.m. at his primary residence in Ulimang, Ngaraard State, and (2) not associate and/or have any communication with individuals known to be involved in the illicit drug trade.

[¶ 4] On February 4, 2026, officers from the Division of Criminal Investigation were at the Belau National Hospital and observed Appellant with Tarakiei Gino Asanuma, an individual law enforcement intelligence reports associate with drug-related activity.

[¶ 5] On February 6, 2026, Appellant arrived and was admitted at the Belau National Hospital after the court-imposed 6:00 p.m. curfew. While at the hospital on February 6, Appellant was also observed on CCTV footage in the company of Tarakiei Gino Asanuma.

[¶ 6] On February 16, 2026, the Republic of Palau filed an Expedited Motion to Revoke Cash Bail and Remand Appellant to custody pending trial. This appeal stems from the trial court's Order Granting Republic's Expedited Motion to Revoke Bail and Remanding Defendant to Custody Pending Trial, entered later that same day (hereinafter, "February Order").

[¶ 7] Appellant promptly filed an Expedited Motion to Hold a Hearing Regarding his Revocation of Bail and Remand to Custody, which the Court denied, also on February 16, 2026, holding that Appellant had failed to show good cause. Appellant filed an Emergency Application for Writ of Habeas Corpus in Civil Action No. 26-031 on February 25, 2026, which the trial court denied. On March 17, 2026, Appellant filed his Notice of Appeal and Designation of Record for this appeal.

STANDARD OF REVIEW

[¶ 8] We review matters of law de novo, findings of fact for clear error, and exercises of discretion for abuse of that discretion. *Obechou Lineage v. Ngeruangel Lineage of Mochouang Clan*, 2024 Palau 2 ¶ 5.

[¶ 9] This Court reviews the trial court’s order to revoke bail for abuse of discretion. *See* 18 PNC § 602. “An abuse of discretion occurs when a relevant factor that should have been given significant weight is not considered, when an irrelevant or improper factor is considered and given significant weight, or when all proper and no improper factors are considered, but the court in weighing those factors commits a clear error of judgment.” *WCTC v. Kloulechad*, 15 ROP 127, 129 (2008). “[C]onclusions of law, such as matters of constitutional and statutory interpretation” are reviewed de novo. *Ngirameketii v. Republic of Palau*, 2022 Palau 9, 16.

DISCUSSION

[¶ 10] Appellant contends that the trial court erred in forfeiting the Appellant’s appearance bond and remanding him to custody pending trial. There are three issues that must be addressed on appeal. The first is whether the Appellate Division has jurisdiction over this appeal. The second is whether the trial court abused its discretion in remanding Appellant to custody. The third is whether the Appellant should be released in spite of his breach of pre-trial conditions.

I.

[¶ 11] This Court has long adhered to the premise that the proper time to consider appeals is after final judgment. *See Toribiong v. Seid*, 23 ROP 1, 3 (2015). We condition the right to appeal upon the entry of a final judgment because “[p]iecemeal appeals disrupt the trial process, extend the time required to litigate a case, and burden appellate courts. It is far better to consolidate all alleged trial court errors in one appeal.” *First Commercial Bank v. Wong*, 20 ROP 132, 136 (2013).

[¶ 12] Appellant seeks to appeal the trial court’s February Order, which is not a final judgment as the criminal matter has yet to be disposed of. In his Notice of Appeal filed on March 17, 2026, Appellant cites to Rule 5(c) of the

ROP Rules of Appellate Procedure as the basis for the appeal. The collateral order doctrine under Rule 5(c) is a limited exception to the final judgment rule and permits an appeal as of right following “any collateral order of the trial court that: (1) conclusively determines a disputed question; (2) resolves an important issue that is completely separate from the merits of the action; and (3) is effectively unreviewable on appeal from a final judgment of the trial court under Rule 5(a).”

[¶ 13] Here, the trial court’s February Order “actually ruled on and determined the issue” of Appellant’s bail and custody status. *See Republic of Palau v. Ngatpang State Pub. Lands Auth.*, 2023 Palau 7 ¶ 27. The trial court’s ruling is a complete and final rejection of Appellant’s claimed right; thereby satisfying the first prong of the test. Second, the very nature of a bail decision is such that it is collateral to the guilt or innocence of an accused. Third, Appellant’s pre-trial bail and custody status would be moot if review of this determination awaited an appeal of the entire case. Thus, the February Order is a collateral order, and jurisdiction is properly vested in the Appellate Division.

[¶ 14] We must also determine whether Appellant’s appeal from a bail bond forfeiture is civil or criminal in nature. Pursuant to ROP R. App. P. 4(a), “[t]he notice of appeal [for an appeal as of right] must be filed within 30 days after the imposition of a sentence in a criminal case, or entry of judgment or order appealed from a civil case, unless otherwise provided by law.” Since no criminal sentence has been imposed, Appellant has thirty days to appeal a bail bond forfeiture, but only if it is civil in nature.

[¶ 15] Generally, bail forfeiture proceedings are civil in nature.¹ For instance, in *United States v. Plechner*, the court held that since the “enforcement of a bond forfeiture is, like an action to collect a criminal fine, a civil case arising from a prior criminal proceeding”, an appeal of an order in such a forfeiture proceeding is likewise a civil proceeding. 577 F.2d 596, 597 (9th Cir. 1978). A bail bond is essentially a contract between the government and the defendant, and upon forfeiture, the surety becomes the government’s

¹ “[T]his Court considers United States authorities when interpreting our Rules.” *ROP v. Salii*, 2017 Palau 20 ¶ 21 n.7.

debtor. *Id.* at 598. Therefore, bond forfeiture proceedings are treated as civil proceedings with a thirty-day period to file a notice of appeal. *See, e.g., United States v. Jackson*, 691 F.2d 478, 479 (11th Cir. 1982); *United States v. Sar-Avi*, 255 F.3d 1163, 1167 (9th Cir. 2001). Appellant filed his Notice of Appeal on March 17, 2026—twenty-nine days after the February Order was filed. Therefore, the bail forfeiture appeal was timely filed.

[¶ 16] Rule 9(a) of the ROP Rules of Appellate Procedure also grants the Appellate Division the authority to order release before judgment of conviction. “The Appellate Division or one of its justices may order the defendant’s release pending the disposition of the appeal, upon such terms and conditions as it deems just and proper.” ROP R. App. P. 9(a)(3). Therefore, the Appellate Division may hear this appeal and has the discretion to grant Appellant’s requested relief.

II.

[¶ 17] Appellant argues that he is not a flight risk or a danger to the community, and his presence at trial can be secured through other reasonable, non-custodial conditions.

[¶ 18] Pursuant to ROP R. Crim. P. 46(a)(1), the trial court must consider whether a pretrial release “on personal recognizance or upon the execution of an unsecured appearance bond. . . will not reasonably assure the appearance of the person as required or would pose a danger to the defendant, any other person, or to the community.” This rationale underlying the imposition of bail is similarly echoed in 18 PNC § 604, which states that it is to “ensure the presence of the accused in the future, prevent tampering with witnesses or evidence, and deter the possible continuation of criminal activity prior to disposition of the case.”

[¶ 19] Upon review of the record, we hold that the trial court did not abuse its discretion in forfeiting Appellant’s bail and remanding him to custody. The trial court correctly considered Appellant’s violation of his stipulated curfew and explicit directive to avoid any communication with individuals known to be involved in the illicit drug trade. The trial court has broad discretion to order pretrial release or detention, and in light of the risk to public safety and

potential continuation of Appellant’s criminal activity, the trial court did not commit any clear error of judgment.

III.

[¶ 20] The Appellate Division “may order [Appellant’s] release. . . upon such terms and conditions as it deems just and proper”. ROP R. App. P. 9(a)(3). However, upon review of the record, we decline to order Appellant’s release.

[¶ 21] Appellant argues that the appeal raises a substantial question of law justifying release, applying the legal standard for granting a stay under ROP R. App. P. 8(a)(2)(D). The substantial question averred is whether Appellant’s conduct constituted a willful breach of a material condition of the bond sufficient to justify the drastic remedies of forfeiture and remand. However, Appellant’s breach need not be willful to justify forfeiture and remand, and noncompliance is sufficient in and of itself for the trial court to find good cause. In any case, Appellant’s breach of his pre-trial release conditions was willful in that he was aware of his obligation to adhere to his curfew and failed to inform the other interested parties of his breach or obtain permission beforehand.

[¶ 22] Appellant also claims that the February Order implicates his fundamental due process rights as there was no hearing on the government’s expedited motion or Appellant’s response. As the trial court correctly noted in its Order Denying Application in Civil Action 26-031, it is not clear due process necessarily required a hearing under the circumstances. Due process is not a bright-line test and calls for different protections in different situations. *See April v. Palau Pub. Utils. Corp.*, 17 ROP 18, 22 (2009); *cf. Mathews v. Eldridge*, 424 U.S. 319, 334 (1976) (discussing due process considerations for deprivations of private interests). While the trial court may have wrongly ordered Appellant’s remand to custody before Appellant filed his response, the trial court’s Order Denying Expedited Motion to Hold Hearing explicitly considered both Appellant’s subsequent response and his motion to hold a hearing. For the purposes of a pre-trial remand to custody, Palauan law is silent on the requirement for an in-person hearing.² Nevertheless, and in light of the

² The requirement for a hearing under 17 PNC § 636 deals with the revocation of post-conviction probations—not the revocation of pre-trial releases on bail.

trial court's review of Appellant's filings and consideration of the arguments contained therein, we conclude that the trial court provided sufficient notice and an opportunity to be heard. Accordingly, Appellant's due process rights were not violated.

[¶ 23] As it stands, Appellant has violated his pre-trial conditions for release on bail which constitutes sufficient ground in and of itself to warrant a remand to custody and a revocation of bail. There are no superseding "just" or "proper" circumstances which compel this Court to order Appellant's release from custody, and we affirm the revocation of bail.

CONCLUSION

[¶ 24] For the foregoing reasons, we **AFFIRM** the Trial Division's decision.