

CHUUK STATE SUPREME COURT TRIAL DIVISION

CHUUK STATE,) CSSC-CRIMINAL. CASE NO. 061-2003
)
Plaintiff,)
)
vs.)
)
JOSEPH WILLIAM and DEO WILLIAM,)
)
Defendants.)
_____)

ORDER DISMISSING REQUEST FOR CHAMBER CONFERENCE AND DISMISSING MOTION FOR
ENTRY AND WITHDRAWAL OF APPEARANCE

Camillo Noket
Chief Justice

Decided: April 29, 2011

APPEARANCE:

For the Defendant: Gideon Doone
(Deo William) P.O. Box 882
Weno, Chuuk FM 96942

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HEADNOTES

Criminal Law and Procedure – Motions

A moving party's failure to file a memorandum of points and authorities will be deemed the moving party's waiver of the motion. Chuuk v. William, 17 FSM Intrm. 495, 496 (Chk. S. Ct. Tr. 2011).

Criminal Law and Procedure – Motions

A motion requesting a chamber conference is defective when it specifies neither a legal ground nor the relief or order sought, as required under Chuuk Criminal Rule 47. The court does not entertain motions for the purposes of "discussing concerns." Chuuk v. William, 17 FSM Intrm. 495, 496 (Chk. S. Ct. Tr. 2011).

Appellate Review – Notice of Appeal; Criminal Law and Procedure

When an appeal has been filed in the case, the trial court, in the absence of any authority indicating otherwise, no longer retains jurisdiction over the matter. Chuuk v. William, 17 FSM Intrm. 495, 496 (Chk. S. Ct. Tr. 2011).

Criminal Law and Procedure

An attorney practicing before the court is expected to know the rules and abide by them. Chuuk v. William, 17 FSM Intrm. 495, 496 (Chk. S. Ct. Tr. 2011).

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COURT'S OPINION

CAMILLO NOKET, Chief Justice:

Counsel for defendant Deo William filed a motion requesting chamber conference with the presiding justice and motion for entry and withdrawal of appearance in the case captioned above on April 20, 2011. Neither motion contained a Memorandum of Points and Authorities, as required under Chuuk Criminal Procedure Rule 45(c). The rule, in relevant part, provides that "[f]ailure by the moving party to file the memorandum of points and authorities shall be deemed a waiver by the moving party of the motion." The motion requesting chamber conference is also defective in that it specifies neither a legal ground nor the relief or order sought, as required under Chuuk Criminal Procedure Rule 47. This Court does not entertain motions for the purposes of "discussing concerns."

Irrespective of the defects in defendant's complaints, on May 29, 2008, an appeal in the case captioned above was filed with the Appellate Division, Case No. 01-2008. In the absence of any authority indicating otherwise, this Court finds that it no longer retains jurisdiction over the matter. An attorney practicing before the court is expected to know the rules and abide by them." Chuuk v. Davis, 13 FSM Intrm. 178, 183 (App. 2005). Counsel for defendant is encouraged to thoroughly review the relevant rules of procedure before filing further motions before this Court or any other in the jurisdiction. Defendant's motions are dismissed.

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FSM SUPREME COURT APPELLATE DIVISION

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|-------------------|---|------------------------------|
| FOUSTINO STEPHEN, |) | APPEAL CASE NO. C1-2010 |
| |) | (Civil Action No. 2005-1007) |
| Appellant, |) | |
| |) | |
| vs. |) | |
| |) | |
| STATE OF CHUUK, |) | |
| |) | |
| Appellee. |) | |
| _____ |) | |
| JOAKIM KAMINANGA, |) | APPEAL CASE NO. C2-2010 |
| |) | (Civil Action No. 2005-1006) |
| Appellant, |) | |
| |) | |
| vs. |) | |
| |) | |
| STATE OF CHUUK, |) | |
| |) | |
| Appellee. |) | |
| _____ |) | |

ORDER DENYING PETITION FOR REHEARING

Decided: May 2, 2011