

MARY BERMAN,

Appellant,

vs.

POHNPEI STATE GOVERNMENT,

Appellee.

APPEAL CASE NO. P5-2009
(Civil Action No. 2008-025)

Decided: March 24, 2011

Hon. Martin G. Yinug, Acting Chief Justice, FSM Supreme Court
Hon. Dennis K. Yamase, Associate Justice, FSM Supreme Court
Hon. Ready E. Johnny, Associate Justice, FSM Supreme Court

For the Appellant: Mary Berman, Esq.
P.O. Box 163
Kolonias, Pohnpei FM 96941

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Appellate Review — Rehearing

The appellate court will not, on a petition for rehearing, "correct" a factual finding when it made no findings of fact; when the fact objected to is a statement that was the facts as found by the trial court; and when that remained the facts on appeal as the events that occurred that led to the appellant's arrest even though the Pohnpei police station's booking sheet differs from those facts in some respects as to the charges for which she was booked. Berman v. Pohnpei, 17 FSM Intrm. 464, 465 (App. 2011).

Appellate Review — Rehearing

Rehearing will be denied when, even if the court had misapprehended a certain fact, the result in the case would not change. Berman v. Pohnpei, 17 FSM Intrm. 464, 465 (App. 2011).

Appellate Review — Rehearing

When the appellate court has neither overlooked nor misapprehended any material points of law or fact, it may summarily deny a petition for rehearing. Berman v. Pohnpei, 17 FSM Intrm. 464, 465 (App. 2011).

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COURT'S OPINION

PER CURIAM:

On March 4, 2011, appellant Mary Berman timely filed her petition for rehearing. She seeks our review of what she contends are three errors in our February 18, 2011 Opinion.

Two of Berman's alleged errors are points of law. After careful review, we determine that we neither overlooked nor misapprehended any relevant law and we further note that, although termed "disingenuous" by Berman, these are points that only her husband, not Berman, would have had standing to raise.

The third error, which Berman asks us to correct, is a factual finding. We made no findings of fact. The fact she objects to is our statement that "Sergeant Iriarte, who after his arrival was the officer in charge, arrested Berman for obstruction of justice and for pushing Iriarte in the chest." Berman v. Pohnpei, 17 FSM Intrm. 360, 369 (App. 2011). These were the facts found by the trial court: "Berman was arrested by Sergeant Iriarte for obstruction of justice and for pushing Iriarte in the chest." Berman v. Pohnpei, 16 FSM Intrm. 567, 571 (Pon. 2009). They remained the facts on appeal as the events that occurred that led to Berman's arrest. We did not overlook that the Pohnpei police station's booking sheet differs from those facts in some respects as to the charges for which she was booked. That, however, would have no effect on this appeal's outcome. Rehearing will be denied when, even if the court had misapprehended a certain fact, the result in the case would not change. Goya v. Ramp, 14 FSM Intrm. 305, 307 (App. 2006).

Accordingly, since we neither overlooked nor misapprehended any material points of law or fact, we summarily deny Berman's petition for rehearing. Nena v. Kosrae (II), 6 FSM Intrm. 437, 438 (App. 1994). The mandate will issue in seven days. FSM App. R. 41.

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FSM SUPREME COURT APPELLATE DIVISION

MARIKO SETIK and ORAN SETIK,)	APPEAL CASE NO. C6-2008
)	
Appellants,)	
)	
vs.)	
)	
HERSIN RUBEN and MORIA RUBEN,)	
)	
Appellees.)	
)	

OPINION

Argued: January 11, 2011

Decided: March 25, 2011