

TRANSLATION

Where plaintiff's complaint is written in English and the defendant requests a written translation into a local Micronesian language, and where it appears that this is the only language the defendant can speak or read, the trial judge may order that the court provide a written translation and that the expense of providing the translation shall be taxed as a cost to the party not prevailing in the action. Rawepi v. Billimon, 2 FSM R. 240, 241 (Truk 1986).

Because the Chuuk Constitution provides that Chuukese is the state language, but both Chuukese and English are official languages, a criminal appellant in the Chuuk State Supreme Court has no constitutional right to a transcript in both Chuukese and English. Reselap v. Chuuk, 8 FSM R. 584, 586 (Chk. S. Ct. App. 1998).

Since the appellate record must be sufficient to permit the court to insure that the issues on appeal were properly raised before the trial court, the appellants are responsible for presenting a record sufficient to permit the court to decide the issues raised on appeal, and the record must be one which provides the court with a fair and accurate account of what transpired in the trial court. They therefore have the burden of providing an appendix that is reviewable by the court – a certified translation of the Chuukese transcript. Setik v. Ruben, 17 FSM R. 301, 303 (App. 2010).

When an appellant argues that some of the trial court's legal and factual findings are incorrect, specifically its factual findings about the ownership of a particular piece of land, the issue is certainly relevant to the appeal, but without a translation of the deposition transcript, the appellate court cannot conclude that the deposition transcript is relevant. Thus, if the deposition transcript's assertions are part of the reported case, there is no need to include it in the appendix but if the assertions are not part of the reported case, the appellants have the burden of providing a certified translation of the deposition transcript. Setik v. Ruben, 17 FSM R. 301, 303 (App. 2010).

When the trial transcript and a deposition transcript relied upon by the appellants are in Chuukese and have not been translated, the court may order the appellants: 1) to provide a certified translation of the trial transcript and either a certified translation of the deposition transcript or a statement that the appellants will not rely on the deposition transcript; or 2) to stipulate to a continuation of oral argument and move for enlargement of time to file a certified translation; or 3) to proceed with oral argument as scheduled without the benefit of the appendix. Setik v. Ruben, 17 FSM R. 301, 303 (App. 2010).

Usually, when the record is not in a form that fairly and accurately provides the appellate court with an account of what happened in the lower court because it has not been translated into English, the appellate court will stop the analysis of the issue there and proceed to the next since the appellants have not met their responsibility to present the court with a record sufficient to permit it to decide the issues raised on appeal and which provides the court with a fair and accurate account of what transpired in the trial court proceedings. Heirs of Mackwelung v. Heirs of Mackwelung, 17 FSM R. 500, 504 n.2 (App. 2011).

Appellate litigants should translate court decisions and other necessary parts of the record into English in order to facilitate and ensure a proper appellate review. Otherwise, the appellate court may be unable, except in an uncommon case, to ensure a proper review of the record and the litigants' arguments. Heirs of Benjamin v. Heirs of Benjamin, 17 FSM R. 650, 657 n.2 (App. 2011).

The scope and manner of examination and cross-examination during the Rule 15 depositions is the same as would be allowed in the trial itself. This includes the prosecution making available to the defendant or his counsel for examination and use during the deposition any statement of the witness being deposed which is in the government's possession and to which the defendant would be entitled at the trial. The deposition procedure will also include frequent pauses in the testimony so as to allow for translation for the defendant's benefit. The prosecution will be responsible for engaging and compensating a court-approved translator so that the defendant can follow the testimony and confer with his defense counsel. FSM v. Tipingeni, 19 FSM R. 439, 450 (Chk. 2014).

Translation expenses are generally allowed as costs. Pohnpei v. M/V Ping Da 7, 20 FSM R. 75, 79 (Pon. 2015).