

My Year In Paradise

by *Eli McCann*



A court marshal stood at the front of the airport holding a sign that said, “McCann counsel.” That was referring to me. It was 10:00 p.m.; it had been dark for four hours already – the sun sets on the equator at 6:00 p.m. year round. I had just discovered all of my baggage had been lost by China Air. Looking back, I can see it was foolish to pack all of my clothes for an entire year in two large bags and check them through an itinerary that consisted of three tight connections across Asia.

It took me four flights to get to Palau, a country of 22,000 people spread out over hundreds of islands in the Equatorial Pacific. I had applied for a job with the Supreme Court of Palau nine months earlier when my co-clerk at the Utah Court of Appeals, Shea, forwarded the job listing to me. “You’re always complaining about winter,” she wrote. At that January moment, it was snowing outside. I had, in fact, been complaining about winter often enough in recent weeks that someone might accuse me of “always” doing it. Shea’s email forward read more like a dare than a referral. “If you really think coconuts and palm trees are your jam, then you shouldn’t have a problem moving to this small dot in the middle of the Pacific,” she seemed to challenge me.

I applied for the job. The Supreme Court was looking for three attorneys from the United States to come spend a year in Palau, a country I had never heard of, and act as counsel for the judiciary. The court functioned mostly in English, and the country had patterned its legal system after the United States. I was mostly unqualified per the job listing that required more experience than I had as a recent law school graduate who was only four months into a judicial clerkship. I figured I would never even hear about an interview. There was no way this would work out. But somehow it did, and that’s how I ended up looking into the eyes of a court marshal holding a sign with my name on it at 10:00 p.m., 7,069 miles from home.

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I was already sweating, standing in the barn-like airport on this tiny jungled island. I had over my right shoulder a backpack with a laptop and my passport – nothing else. “That’s me,” I told the court marshal. He spit a stream of red betel nut¹ saliva out of the side of his mouth, something akin to islander chewing tobacco, and directed me to his van just a few feet away. We drove through the islands connected by causeways and bridges. The dense jungle hugged and threatened to overtake the roads. Occasionally small huts or dim store fronts poked through the trees and vines. After twenty minutes we reached the island I would call home. It was one square mile. Atop the hill at the center of the island sat a white-bricked apartment complex.

The court marshal walked me to the apartment door, deposited me inside, wished me luck, and walked away. There I stood, on laminate flooring, a few flickering lamps and some basic furniture in front of me, a refrigerator humming at the volume of a running diesel engine. Two geckos were skirmishing across the wall above a moldy couch. A pile of boxes sat in the kitchen, looking worse for the wear. I had shipped these boxes to Palau a month or two before. They were full of dented pots and pans and silverware that barely survived the journey. “And not a scrap of clothing in a single one of them,” I thought to myself. *Why had I not shipped a box of clothes?*

It was about eighty degrees inside, and so humid that every surface felt damp. I had been traveling for over thirty hours by this point, hardly catching a minute of sleep during that time, and I was supposed to report to work in about eight hours. “I should shower,” I thought. A minute later the shower head flew off and hit me square in the chest. Ice cold water sprayed me from a hose. I had no hot water. And the shower was obviously broken.

One thing no one told me about tropical islands is how dark and remote they sometimes feel. On top of that hill on the one square mile of land and far away from any reasonable amount of civilization, I shivered in an icy shower and staved off a panic attack. “I have made a massive mistake,” I thought to myself. “*Massive.*” Just then the power went out. When I climbed out of the shower I located a candle and lit it, and then noticed a note left by the apartment’s prior occupant, Megan. She was counsel for the supreme court until just a week before when she relocated back to the United States. I had moved into her old apartment. I had taken her old job. I had bought her old car. “Welcome!” Megan’s note said. “I hope Palau, and this place I called home, treat you how they treated me.” It ended, ominously, without further exposition.

The power came back on just as I climbed into bed, nothing more than a ceiling fan to cool me. I slept on top of the sheets. There were no blankets. I would never need blankets. The skittering of animals I couldn’t see wooed me to sleep.

The next morning I woke up to a sunny nation. My front door looked out over dozens of islands and tropical bays. I walked down to the street below, passed packs of street dogs and shirtless men lounging in front of their houses, already spent from the day’s heat. It was 6:30 in the morning.

Thirty minutes later, I found myself at the courthouse in the clothes that I had been wearing for two days – the only clothes I had – and I was introduced to my office. There sat a stack of blue and red appellate briefs. “If you can find Palauan case law, use it,” the chief justice told me. His name is Arthur Ngiraklsong, but everyone in the country calls him CJ. His brilliant mind and diligent care in building and protecting the integrity of his small nation’s legal system have made a difference few lawyers ever realize in their careers.

“If you *can’t* find Palauan case law, try the Ninth Circuit.”

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STUART T. WALDRIP, JUDGE (RET.)



- 50+ years resolving disputes; 13 years ADR in Utah
- U of U Law, BYU Law Prof.
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Palau gained its independence in 1981, just three years before I was born. Prior to that, it was a United States territory. When it became an autonomous nation it was suddenly required to adopt a constitution. It did so, drafting a document very similar to ours in the United States, and formed three branches of government, including a fully functioning judiciary with district judges and a court of last resort.

CJ was appointed to his position. Three others filled the remaining spots – all lifetime appointments. The four function as both trial and appellate court judges. They sit in alternating panels of three on appeal, reviewing the decision of the fourth judge who had handled the trial matter.

One of the challenges in a country with the population of a small town is adequately clearing judicial conflicts of interest. Everyone in Palau knows everyone else in Palau, and most people are related in some way or another. Relationships must be extremely close to merit recusal; otherwise the judiciary would cease to function.

The court counsel, of whom I was one of three, were there to attend hearings and arguments, and draft decisions and opinions from the court for the relevant judges to review and sign. Lawyers are recruited from the United States year after year to staff the position because the country is unable to fill the roles from its permanent population. The matters I was assigned were varied: land disputes, contract claims, a machete murder that caught the usually-quiet island nation by surprise.

Day after day, often in borrowed clothes, at least at the beginning, I sat in that humid office, flipping through damp litigation briefs, and trying not to doubt my decision to move there. “My biggest fear,” CJ had told me when he came to Los Angeles to interview candidates six months earlier, “is that we’ll hire someone, they’ll come to Palau, and they’ll discover that paradise is not what they expected. My biggest fear is *hiring someone who will abandon us*.” “I would never do that,” I assured him. “I won’t do that.”

“I won’t do that,” I repeated to myself, as sweat dripped down my face. As ants crawled up my feet in my office. As island fever set in. As I drove my beat-up Japanese car with the steering wheel on the right side up and down the single paved road in the country and pretended I was going somewhere. As I returned to my apartment one night to find a large rat had eaten through a screen in my window and dragged a chocolate cake I had just baked off of the kitchen counter and across the floor. “I won’t do that,” I reminded myself, every time I fantasized about

climbing onto a plane and flying to a city with air conditioning and a movie theater and functioning internet.

“I promised.”

In addition to my regular duties, I had been assigned to assist with the “Land Court.” The Land Court had been established in 1996 as a “temporary” adjudication body whose sole overly-optimistic purpose was to permanently settle all land disputes in the country and issue final determinations on boundaries and ownership within just a couple of years. Historically, Palau had not thought of land the way we are accustomed to think about it in the United States. Property ownership was less defined – more fluid and tribal. There are still no addresses in the country. The streets don’t have names. Residents receive mail in a centralized P.O. box located at the single island post office just next to the courthouse. Palauans don’t ask where you “live,” but rather where you “stay,” signaling the culture’s transient view of residency.

During the Japanese occupation of the country prior to World War II, Japanese lawyers attempted to survey all land in Palau and document borders and title. These old records, controversial and perpetually disputed, are reviewed by the Land Court, which still functions today, now nearly two-and-a-half decades after it was formed.

Once a week I sat in the chambers of the Land Court judge I had been asked to assist. We pored over massive table maps coated in scribbled Japanese characters and Palauan words I couldn’t read. “Our job is to figure this out so people don’t kill each other over it,” the judge had told me in our first meeting, before spitting some red betel nut saliva into a can.

To this day that still feels like a perfect description, *if not a little aspirational*, of this entire noble profession.

The prison was not far from the courthouse. Small, and muggy, it housed a dozen or so of the nation’s incarcerated. I visited the prison a few times as a part of my work duties. The place was always something of an enigma to me. I had been told early on that some of the prisoners were let out during the day under a strict directive to report back to their cells by sundown – the idea being that they get jobs and help their families with household chores. I still don’t know whether this is true. It always seemed like a myth to me.

Something I *was* able to verify: To make some money, the

prison provides sharp knives to the inmates each morning to carve “storyboards” depicting fish and huts and Palauan legends. They are sold to visitors in the prison gift shop, the country’s best place to purchase souvenirs. “You have to stop by the prison gift shop,” I used to tell tourists when they asked for advice on what to do in the country. “The storyboards are gorgeous. Also, they have a wall-mounted air conditioner that they run in the afternoons in there.”

Apart from providing weapons to the incarcerated, the security at the tiny prison was weak. There is a meager fence surrounding it. The building, housing a dozen or so cells, sat just off of the main road among dozens of homes and business. One inmate escaped only a few weeks after I arrived in Palau. I don’t remember many of the details – whether he had been let out and failed to report back or whether he had simply walked out the front door when he was supposed to be inside carving storyboards. I do remember he had committed a violent crime and some people were worried. Word got out quickly and by my memory it was only a matter of hours before the island gossip chain had pinpointed his exact location, well enough for the prison guards to pick him up and bring him back. The *Island Times* reported the excitement on a full front page the very next day.



My Utah driver license was only good for thirty days in Palau. To continue driving, I would need to get a Palauan license, which meant I needed to take a written test. The clerk of court dropped a packet listing all of the nation’s driving laws onto my desk. “Just

memorize these word for word. It’s easiest not to think too much about it.” That proved to be good advice, particularly as it concerned one rule that I have spent probably a combined 200 hours in the last seven years thinking about: “It is not permitted for more than three people to ride in the front seat of a vehicle at a time, unless one of those people is a child under the age of seven.”

Although traffic travels on the right side of the road in Palau, many of the vehicles come from Japan and have the steering wheel on the right side. In the year I lived in Palau, I never

could get used to this. On many occasions I was caught off-guard by a beat-up Suzuki with three or more small toddlers bouncing around in what I implicitly believed to be the driver’s seat, like a pack of rogue children who had commandeered a vehicle.

Another law declared, “It is not permitted for anyone to have a driver’s license who has been previously adjudged to be an idiot.”

Frankly, we could use a rule like this in Utah.

Word made it through the islands in December of 2013 that Typhoon Bopha was on its way.

The court marshals issued a set of instructions for every employee to place their computers on the floor and otherwise secure documents and records. Windows were taped and protected. Typhoon Bopha was expected to be the largest storm in Palau’s recorded history.

The typhoon veered north only hours before it was scheduled to hit the islands, and because of that, Palau avoided the worst of its strength. The wind surges and goliath raindrops were still brutal enough to cause substantial damage and destroy or badly

weaken hundreds of homes. When the sun rose six or so hours after the howling had stopped, we woke up to a battered nation. The power was out and wouldn't be restored for a few days. A message made it to me through the grapevine that the court would be closed until further notice.

Everyone was out on cleanup duty. Every shoulder to the wheel. That's the way things work in small towns.

Two hours later, I was chopping back razed banana trees with a rusted machete. A dozen or so others helped me pile the banana bunches into a plastic green wheelbarrow, which we later divvied up among the neighborhood; these would be the last fresh bananas we would have for many months as the decimated delicate shoots across Palau took that long to recover from the storm.

A few days later I returned to work. Thereafter the storm became the most common national excuse for procrastination. Litigators requested court extensions for several months, vaguely citing "Typhoon Bopha" as their good cause.

Some kids in my neighborhood regularly flagged my car down when they saw me driving by, hoping I could give them a ride somewhere. Four months after the trees had been cleared and the houses had mostly been put back in order, I pulled over to pick up 16-year-old Skarla and take her to school.

"I'm failing," she told me as she climbed into the car, tossed her backpack to the backseat, and slammed the door shut. "I'm failing math."

"Why?" I asked her.

She shrugged, spit some red betel nut saliva out the passenger's window.

"Typhoon Bopha."

I had been in Palau for six months when I decided I should probably start trying to figure out what I would do next. I had mostly eased into my Palauan life by this point. No longer noticing the apartment geckos, hardly aware that I was perpetually sweating, and hitting my stride in my court role, I was getting almost comfortable.

Even my two long-lost checked bags had finally made it back to me after what appeared to be something of an exciting and

religious journey, evidenced by what looked like several knife wounds that were patched up by mysterious large stickers depicting Jesus on the cross. When I asked the airline employee who handed them over to me in front of the airport where the bags had been, he looked at the stickers, chuckled to himself, and said "hell, and then heaven, and then Palau."

I was happy to be in Palau, though I did still miss air conditioning and internet and still found myself staving off the occasional panic attack in the dark jungle.

This was 2013. The legal market in Utah was just beginning to recover from the recession that had left myself and my classmates from the class of 2011 with very few options. I had reached out to some law firms in Salt Lake City, pretty sure that's where I wanted to be when this odd career blip ended. Pretty soon I had a Skype interview set up with what would become my new employer.

I was brave to agree to do this over Skype in a country where the satellite internet was so slow that I often wasn't able to load my email. I had bigger problems than likely technological difficulties, though: I didn't own a suit. Well, I did, but not one within 7,000 miles of my apartment.

I had been told not to bother bringing one to Palau. "You'll never need it," my predecessor had explained to me via email. "Not even for court. Just bring some hiking pants and a few polo shirts. Also, CJ doesn't like us to wear flip flops to work so you'll need to get some business sandals."

Business sandals.

I thought that might be a joke, so I wore some polished black loafers on my travels to Palau just in case. Two days after arriving in the country a nine-year-old boy stopped me and asked if I was a lawyer.

"Yes," I told him. "How did you know?"

"Because you're wearing shoes."

Before long I learned that the only lawyers who wore shoes were the ones who had recently arrived from the United States. After two weeks I walked to the local "department store" just on top of a small food market and bought myself a pair of business sandals.

They were only slightly more formal-looking than my black flip flops, but they did the job. I felt dignified in them, like I was respecting the judiciary every time I fastened the buckles. To

this day I'm still not used to wearing shoes to work. I take them off the moment I get to my office every morning.

I quickly began pinging everyone in the country I thought might have a suit I could borrow for the interview. In hindsight, I probably could have made a reasonable excuse for my informality, but I was nervous and wanted to make a good impression on this law firm that might not take me seriously if I was shirtless and fanning myself with a paper plate, as was usually my state of existence any time I was in my apartment.

My friend and co-counsel Brian told me he had a tweed jacket he had foolishly shipped to Palau the prior year. I could borrow that, and considering that the quality of the Skype call would be low, with the right amount of dim lighting it just might look like I was wearing a respectable suit.

The tweed jacket was more clothing than I had worn in months, and it was nearly suffocating in my stifling apartment. To survive the interview without suffering heat stroke, I would have to do it without pants. "Don't stand up," I wrote on a sticky note that I taped to my laptop monitor, a reminder to keep the camera frame above my waist.

"So, what exactly is your job there?" a blurry man in a boardroom asked me as I resisted the urge to wipe sweat from my forehead.

"Well, I draft opinions and attend hearings, . . . and . . . I guess mostly just try to read Japanese maps so people don't kill each other."

Twelve months, almost to the day, after I greeted the court marshal for the first time, a friend dropped me off at the airport to fly back to Utah. I had just parked my car at the courthouse and left the key in an envelope for the lawyer who bought it and would be flying in the next week to move into my apartment and office and assume my life.

I had left her a note on the coffee table: "Welcome! I hope Palau, and this place I called home, treat you how they treated me."

The plane took off long after sunset. Out the window I could see scattered dim lights flickering through the jungle below. Two minutes later it was gone – only the dark expanse of ocean in every direction.

Palau has sort of felt like a dream to me over the years since – like I made it all up – like it didn't really happen. Sometimes I

get online and pull it up on a map and zoom in as closely as I can, tracing the path on the unnamed road from my apartment to my office to my favorite island spots. It feels like I'm conjuring a pretend memory when I do that.

When you go to Palau, customs stamp a large pledge into your passport, and then they require you to read and sign it. It takes up a full page:

*Children of Palau,
I take this pledge,
as your guest,
to preserve and protect
your beautiful and unique
island home.*

*I vow to tread lightly,
act kindly and
explore mindfully.*

I shall not take what is not given.

*I shall not harm
what does not harm me.*

*The only footprints
I shall leave are those
that will wash away.*

To this day – as I remember to be grateful for air conditioning, as I inform my unamused husband I haven't done the project around the house I promised to do because of "Typhoon Bopha," as I tell law students "you can do a lot of strange things with a law degree," – I notice that while my footprints have surely long since washed away on Palau, Palau's have not for me.

1. This odd substance took some getting used to. And the term "betel nut" is really a double misnomer. The "nut" is really areca nut, and it's technically a berry. Many Palauans wrap the areca in betel leaves (hence the colloquial designation) and chew it throughout the day. Its use is pervasive, unlike chewing tobacco in the United States in recent years. I never tried it, something I occasionally regret. Heavy users have a mouth full of rotted red teeth, and a near constant nicotine-like buzz. So of course it's addictive and carcinogenic. See generally Wikipedia, *Areca nut*, https://en.wikipedia.org/wiki/Areca_nut (last visited Mar. 30, 2020). Tiny Palau merited its own paragraph in the Wikipedia article on the areca nut: "In Palau, betel nut is chewed with lime, piper leaf and nowadays, with the addition of tobacco. Older and younger generations alike enjoy the use of betel nut, which is readily available at stores and markets. Unlike in Papua New Guinea and the Solomon Islands, where the inner areca nut is used, in Palau, the areca nut's skin is chewed along with lime, leaf and tobacco and the juice is not swallowed but spat out." *Id.* Fortunately, sidewalks are few and far between in Palau.