IN THE SUPREME COURT OF GUAM

VICENTE C. PANGELINAN, Senator, and JOSEPH C. WESLEY, Mayor, on behalf of themselves and all those similarly situated,
Plaintiffs-Appellants

vs.

CARL T.C. GUTIERREZ, Governor, Y'ASELA A. PEREIRA, Treasurer, the GOVERNMENT OF GUAM, and DOES 1 THROUGH 10,
Defendants-Appellees

OPINION

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Supreme Court Case No.: CVA99-020
Superior Court Case No.: SP0073-98

Appeal from the Superior Court of Guam
Argued and submitted December 10, 1999
Hagåtña, Guam

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BEFORE: BENJAMIN J. F. CRUZ, Chief Justice; PETER C. SIGUENZA, Associate Justice; and JOHN MANGLONA, Designated Justice.

SIGUENZA, J.:

[1] The lower court decision found in favor of the Appellees, Gutierrez, et al., holding that Substitute Bill No. 495 was not pocket vetoed. We find that there was a valid pocket veto of Substitute Bill No. 495 and that the doctrine of ratification does not apply. Therefore, we reverse the lower court's decision.

FACTUAL AND PROCEDURAL BACKGROUND

[2] On February 7, 1998, the 24th Guam Legislature passed Substitute Bill No. 495 (hereinafter "Bill 495"), by eleven (11) to ten (10) votes. Bill 495, later designated as Guam Pub. L. 24-139 (February 22, 1998), was enacted to update Guam's Solid Waste Management Plan, commonly referred to as "the Garbage Bill." Attached to the bill was a rider which acted to reorganize the distribution of power within the judicial branch.[1]

[3] Later that day, Senator Eduardo J. Cruz moved to adjourn subject to the call of the Speaker of the Legislature. The motion carried and the Legislature adjourned. The Legislature did not specifically authorize anyone to receive messages from the Governor during that legislative break.

[4] On February 10, 1998, Bill 495 was presented to Governor Carl T.C. Gutierrez for signature. Ten (10) days after presentment, Sundays excepted, the Legislature was not in session and the Governor had not returned Bill 495 to the Legislature or anyone connected thereto. Instead, on February 22, 1998, the Governor sent the unsigned bill and a letter to Speaker Unpingco explaining his decision to neither sign nor

[1] Essentially, the rider served to divest the Supreme Court of Guam of administrative authority over the Superior Court and return such power to the Superior Court.

veto Bill 495 and identifying his reasons therefor. Noting his dismay that it would not be possible to control the "whim[s]" of the Legislature, the Governor indicated that he "allowed Substitute Bill No. 495 to go into law without the benefit of the signature of the Governor." Appellants' Excerpts of Record, Exh. C at 2. The Legislature received the Governor's letter on February 23, 1998. On February 26, 1998, the Legislature reconvened, nineteen (19) days after adjournment. On March 12, 1998, thirty (30) days after presentment, the Governor had not signed Bill 495.

[5] Bill 495 was subsequently referred to by two different public laws. On March 25, 1998, the Legislature passed Bill No. 525, which became Guam Pub. L. 24-166 (April 11, 1998). On October 2, 1998, the Legislature overrode the Governor's veto to enact Bill No. 520, which became Guam Pub. L. 24-272 (October 8, 1998). Both P.L. 24-166 and P.L. 24-272 make reference to the Solid Waste Management Plan section of Bill 495.

[6] Senator Vicente C. Pangelinan and Mayor Joseph C. Wesley, on behalf of themselves and all those similarly situated (hereinafter "the Appellants"), filed a Complaint for Declaratory Judgment and Injunctive Relief, as well as a Motion for Preliminary Injunction and Consolidation of the Hearing with the Trial on the Merits. Governor Gutierrez, Treasurer Y'asela A. Pereira, the Government of Guam, and unnamed Does (hereinafter "the Appellees"), filed an Opposition to Plaintiffs' Motion for a Preliminary Injunction and then a Motion to Dismiss under Guam R. Civ. P. 12(b)(6). The Mayors' Council of Guam moved *ex parte* to intervene pursuant to Guam R. Civ. P. 24 and filed an answer and Motion to Dismiss, as well. The hearing on May 4, 1999, was treated as a trial on the merits, with the parties stipulating to the admissibility of all submitted documents. The trial court disposed of all issues, including those raised in the motions, and rendered a final decision. The Decision and Order was filed on June 1, 1999, and was entered on the docket on June 2, 1999. The lower court found in favor of the Appellees, and the Appellants subsequently

filed a timely appeal on June 4, 1999.

ANALYSIS

[7] The Supreme Court has jurisdiction over this matter pursuant to Title 7 GCA §§ 3107, 3108, (1994). The Appellants raise two issues on appeal– that the trial court erred in finding there was no pocket veto of Bill 495 pursuant to 48 U.S.C. § 1423i, the Organic Act of Guam, and that Bill 495 was not subsequently ratified. Issues of statutory interpretation are questions of law reviewed *de novo*. *Ada v. Guam Telephone Authority*, 1999 Guam 10, ¶ 10; *People v. Kim*, 1999 Guam 7, ¶ 7*; Camacho v. Camacho*, 1997 Guam 5, ¶ 24. The application of facts to law is reviewed *de novo. People v. Santos*, 1999 Guam 1, ¶ 31.

[8] The Appellants argue that Bill 495 was pocket vetoed. The Appellees claim no pocket veto occurred, and additionally argue that even if Bill 495 was pocket vetoed, it was subsequently ratified. We find that Bill 495 was pocket vetoed and that the Legislature's subsequent actions did not serve to ratify Bill 495.

A. The pocket veto.

[9] This court understands the definition of a pocket veto to be as follows:

> Non-approval of a legislative act by the president or state governor, with the result that it fails to become law. Such is not the result of a written disapproval (a veto in the ordinary form), but rather by remaining silent until the adjournment of the legislative body, when the adjournment takes place before the expiration of the period allowed by the constitution for the examination of the bill by the executive.

BLACK'S LAW DICTIONARY 1565 (6th ed. 1990). With that definition in mind, we will examine Guam's so-called pocket veto provision. The pocket veto provision is found in the Organic Act of Guam, 48

U.S.C. § 1423i, which provides:

> **§1423i. Approval of Bills.** Every bill passed by the legislature shall, before it becomes a law, be entered upon the journal and presented to the Governor. If he approves it, he shall sign it, but if not he shall, except as hereinafter provided, return it, with his objections, to the legislature within ten days (Sundays excepted) after it shall have been presented to him. If he does not return it within such period, it shall be a law in like manner as if he had signed it, *unless the legislature by adjournment prevents its return, in which case it shall be a law if signed by the Governor within thirty days after it shall have been presented to him; otherwise it shall not be a law*.

48 U.S.C. § 1423i (1987) (emphasis added).

[10] There are two broad reasons why the circumstances of this case resulted in a pocket veto. The first regards the lack of adequate procedures surrounding delivery of gubernatorial messages to an agent of the Legislature during legislative absence. The second regards the entire process stated in 48 U.S.C. § 1423i which describes the sole manner in which bills become law.

1. Lack of adequate procedures.

[11] The first United States Supreme Court case examining the federal pocket veto, *The Pocket Veto Case*, 279 U.S. 655, 49 S.Ct. 463 (1929), sets forth a number of concerns inherent in delivery of bills to an agent of Congress.[2] In *Pocket Veto,* Congress presented Senate Bill No. 3185 to the President on

[2] The relevant section of Article I, Section 7, Clause 2 of the federal constitution reads as follows:

> Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it . . . . If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

U.S. CONST. art. I, § 7, cl. 2.

June 24, 1926. *Id*. at 672, 49 S.Ct. at 464. On July 3, Congress adjourned its first session *sine die*,[3] and did not return to begin its second session until the first Monday in December. *Id*. The ten day period within which the President was to have either signed the bill or returned it with his objections terminated on July 6, 1926, while both Houses of Congress were out of session. *Id*. The President neither signed nor returned the bill with his objections; nor did he appear to issue any statement relative to it. *Id*. at 673, 49 S.Ct. at 464. The law was not published. *Id*. The plaintiff sought to have the law enforced, but the United States government claimed that it had been pocket vetoed. *Id*. at 673-75, 49 S.Ct. at 464-65.

[12] The United States Supreme Court held that to properly return a bill to the house in which it originated, it must be returned to "the 'House' when sitting in an organized capacity for the transaction of business," i.e., the house in session. *Id*. at 683, 49 S.Ct. at 467. Even if

> Congress . . . enacted [a] statute authorizing [an] officer or agent of either House to receive for it bills returned by the President during its adjournment, and . . . there [was a] rule to that effect in either House, the delivery of the bill to such officer or agent, even if authorized by Congress itself, would not comply with the constitutional mandate.

Id. at 684, 49 S.Ct. at 468. The Court expressed concern over the dangers inherent in delivery to an agent rather than the house in session:

> [I]t was plainly the object of the constitutional provision that there should be a timely return of the bill, which should not only be a matter of official record definitely shown by the journal of the House itself, giving public, certain and prompt knowledge as to the status of the bill, but should enable Congress to proceed immediately with its reconsideration; and that the return of the bill should be an actual and public return to the House itself, and not a fictitious return by a delivery of the bill to some individual which could be given a retroactive effect at a later date when the time for the return of the bill to the House had expired.

Id. at 685, 49 S.Ct. at 468.

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[3] The Senate initially adjourned until November 10, where it sat as a court of impeachment, and then adjourned that day *sine die*, i.e., without date set for return. *Id*. at 672, 49 S.Ct. at 464.

[13] Subsequent caselaw has seemed to modify the strict ban on delivery to an agent placed by the *Pocket Veto* Court. When the issue of the pocket veto under 48 U.S.C. § 1423i was litigated approximately 25 years ago in *Bordallo v. Camacho*, 416 F.Supp. 83 (D.Guam 1973), and then on appeal at 520 F.2d 763 (9th Cir. 1975), a more lenient approach was adopted. In *Bordallo*, Bill No. 302 was passed by the Guam Legislature on July 10, 1973; it was then presented to the Governor on July 26, 1973. The Legislature adjourned on July 16 until August 27, 1973. *Bordallo*, 416 F.Supp. at 84. The Governor neither signed the bill nor returned it with his objections. *Id*. at 85. Instead, he sent a message to an unidentified agent of the Legislature on August 7, the tenth day, Sundays excepted, after presentment, stating that he was pocket vetoing the bill. *Id*.

[14] For the Ninth Circuit, constructive delivery of bills to the Legislature during a legislative absence seemed to be deemed adequate. *Bordallo*, 520 F.2d at 764. Under our interpretation of the relevant caselaw, in order to allay the *Pocket Veto* concerns, more than mere designation of an agent for receipt is required. We read *Bordallo* to mandate that those other procedures should account for the "receipt, filing, routing, and safekeeping of such messages as might be delivered to the Legislature" in their absence. *Id*. Therefore, the procedures that were in place at the time Bill 495 was presented to the Governor must be examined.

[15] In this case, the measures mandated by *Bordallo* are found in the Standing Rules of the 24th Guam Legislature and Title 2 GCA § 1118, (1996). The Standing Rule for the 24th Legislature regarding delivery of communications, Rule § 4.07, begins with:

> All communications, petitions and messages addressed to the Legislature shall be delivered to the Legislative Secretary, who shall transmit them to the Committee on Rules for proper disposition.

24th Guam Legislature Standing Rule § 4.07. The lower court incorrectly quoted Standing Rule § 4.07 for the 25th Legislature as that of the 24th Legislature. Rule § 4.07 for the 25th Legislature reads in part as follows:

> All communications, petitions and messages addressed to *I Liheslaturan Guahan* shall be delivered to the Speaker, who shall transmit them to the Legislative Secretary for record keeping and to the Committee on Rules for proper disposition. The Legislative Secretary shall be designated to receive all bills transmitted to *I Maga'lahen Guahan* and being returned pursuant to the Guam Organic Act, 48 U.S.C. § 1423i, *Approval of Bills*, whether *I Liheslaturan Guahan* is in Session, Recessed or has Adjourned.

25th Guam Legislature Standing Rule § 4.07; *see* Appellants' Excerpts of Record, Seq. No. 97 at 14-15.

Title 2 GCA §1118 reads in part:

> (b) At any time when the Legislature is in recess or has adjourned and could be in session but for such recess or adjournment, either the Speaker or the Committee on Rules may summon the Legislature to meet for whatever period of time the Legislature shall deem required. A meeting called pursuant to this paragraph shall be a continuation of the regular session last convened pursuant to Paragraph (a) of this Section.
> (c) At any time when the Legislature is in recess the Legislative Secretary is empowered to and shall receive any messages or communications of any kind addressed to the Legislature from the Governor. For purposes of this Paragraph receipt of messages or communications of any kind from the Governor to the Legislature shall occur if delivered to the Legislative Secretary or to the Office of the Legislative Secretary.

2 GCA § 1118(b), (c).

[16] Additionally, the Legislature could have specifically authorized someone to receive messages from the Governor during the adjournment, but it failed to specifically authorize anyone to do so. It would, however, so authorize the Speaker at the close of its next session, contrary to both the Standing Rules and the GCA. *See* Appellants' Excerpts of Record, Seq. No. 11 at 2.

[17] The lower court, though quoting Rule § 4.07 of the 25th rather than the 24th Legislature, indicated that the Standing Rule may be read as a command or as a designation. In the spirit of harmonization with 2 GCA § 1118, it selected the latter. Therefore, the lower court determined that both 2 GCA § 1118(c)

and Standing Rule § 4.07 apply. In so doing, the lower court collapsed "adjournment" and "recess" into one term. This, however, does not appear to this court to be the best interpretation of the two terms.

[18] The Standing Rules for the 24th and the 25th Legislatures reference Mason's Manual on Legislative Procedure as the source to consult for questions regarding the Standing Rules. Mason's suggests a difference between an adjournment and a recess. *See* American Soc'y of Legislative Clerks & Secretaries, Mason's Manual of Legislative Procedure § 214 (1989). The relevant section of Mason's reads as follows:

> **Distinction Between Adjournment and Recess**
>
> **1.** The basic distinction between adjournment and a recess is that an adjournment terminates a meeting, while a recess is only an interruption or break in a meeting. After an adjournment a meeting begins with the procedure of opening a new meeting. After a recess the business or procedure of a meeting takes up at the point it was interrupted.
>
> **2.** Breaks in the meetings of a day, as for meals, are usually recesses, but termination of meetings until a later day are adjournments.

Id.

[19] The Legislature itself chose to "adjourn" according to the Legislative Daily Journal entry. Appellants' Excerpts of Record, Exh. A at 12. In Legislative Daily Journal entries, breaks within sessions are termed "recesses." *See id.* at 1. When the session resumes after a recess, the formalities associated with beginning a meeting are not employed. *See id.* It is an "elementary" canon of construction that "effect must be given, if possible, to every word, clause and sentence of a statute." Sutherland Stat. Const. § 46.06 (5th ed.) (citation omitted). With that rule in mind, by the definitions contained in Mason's and the Legislature's own procedures, the Legislature has demonstrated recognition of the distinction between a recess and an adjournment and, in the instant case, appears to have adjourned rather than recessed. When the Legislature returned from its break in the instant case, they began with the procedure for opening a new

day of business, as opposed to a recess within a day of business. *See* Appellants' Excerpts of Record, Exh. B at 1. We then find that 2 GCA § 1118(c) was inapplicable.

[20] The only applicable procedural measure to be addressed is Standing Rule § 4.07. Rule § 4.07 does not specifically authorize the Legislative Secretary to receive bills from the Governor during any sort of legislative absence, but even if it could be read to so include such duties, it would be insufficient to safeguard against the dangers indicated in *Pocket Veto.* Despite the Appellees' argument that 2 GCA § 1118 and Rule § 4.07 were enacted in the wake of *Bordallo* specifically to address these *Pocket Veto* concerns, our reading of *Bordallo* leads us to believe that more elaborate procedures of the type mandated by the Ninth Circuit, procedures beyond the mere designation of an agent for receipt, are required in order to effect a valid delivery of a bill from the Governor to the Legislature when the Legislature is not in session.

[21] Finally, the Appellees contend that over the past fifteen years, the practice has been to have the Speaker receive messages from the Governor. However, this practice violates 2 GCA § 1118 which has been in place since 1976, and the Standing Rules of the 24th and, in part, the current 25th Legislatures. Past practice best supports the contention that there was confusion as to procedure, especially since the Governor seemed intent upon establishing and following delivery procedures, at least delivery procedures of legislative communications to the Executive Branch. Appellants' Excerpts of Record, Exh. D, Exh. F. Moreover, past practice is irrelevant. As stated in another United States Supreme Court case regarding the pocket veto provision, *Wright v. United States*, 302 U.S. 583, 598, 58 S.Ct. 395, 401 (1938), "[t]he question now raised . . . must be resolved not by past uncertainties, assumptions, or arguments, but by the application of the controlling principles of constitutional interpretation."[4]

[4] The argument that the Governor had returned bills to the Legislature when it was in recess before without difficulty was similarly discussed by the district court in *Bordallo*. In response, the court stated that "[s]imply because

[22] As the Ninth Circuit stated in *Bordallo*, the district court was correct in finding there had been a pocket veto "in view of the ease with which the Guam Legislature could have made such provisions if it thought the prospect of a pocket veto to be undesirable." *Bordallo*, 520 F.2d at 765. Similarly in this case, it was the prerogative of the Guam Legislature to institute the above-described adequate procedures. The Legislature could have easily chosen to amend its Standing Rules to provide for return procedures, just as it amended those Rules for the 25th Legislature, yet it did not.[5] Such procedures are important in order to effect orderly government and better serve the people of Guam. If there is uncertainty regarding the delivery of bills back to the Legislature or if bills are not properly recorded and preserved, the Legislature cannot act swiftly to override a veto, if necessary, or perhaps enact further legislation that would be dependent upon any prior enactment. Both the Executive and the Legislative Branches should be certain and aware, in a timely manner, of the status of legislation at all times within the enactment process. More extensive procedures surrounding delivery to the Legislature, when adjourned, are needed to ensure that. Since adequate procedures were not in place, we hold that there was a pocket veto of Bill 495.

2. Process by which bills are enacted into law.

[23] In cases involving statutory construction, the plain language of a statute must be the starting point. *American Tobacco Co. v. Patterson*, 456 U.S. 63, 68, 102 S.Ct. 1534, 1537 (1982). This court believes the logical and plain reading of 48 U.S.C. § 1423i outlines a complete procedure whereby a bill

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the Governor has returned bills during recesses doesn't prove that he is not prevented from returning bills by a recess. The Pocket Veto Case is concerned with the Constitutional interpretation and not the physical facts of the matter. However, it is important that the Governor act consistently." *Bordallo*, 416 F.Supp. at 88.

[5] The issue of whether Rule § 4.07 for the 25th Guam Legislature adequately addresses the *Pocket Veto* concerns discussed in this opinion is not before the court at this time and we make no determinations thereon.

becomes a law. If the Legislature is in session, the Governor has ten (10) days within which he must either sign a bill, thereby enacting it into law, or send the bill back to the Legislature with his objections, at which point the Legislature may override the veto with the requisite votes. *See* 48 U.S.C. § 1423i.

[24] However, if the Legislature is not in session, the Governor then has thirty (30) days within which to sign the bill into law, and if he does not sign the bill, then it does not become law. *See Thirteenth Guam Legislature v. Bordallo*, 430 F.Supp. 405, 413 n.40 (D.Guam 1977) ("In the usual case, the bill becomes a law unless returned to the legislature within ten days. If the legislature has adjourned, however, a bill does not become law unless signed by the governor within thirty days."). The "pocket veto" does not come into effect, then, until the 30-day period has expired, provided the Legislature was not in session on the tenth day after presentment.[6]

[25] Several other jurisdictions with constitutional pocket veto provisions akin to that of Guam follow a similar procedure. For example, the Constitution of South Carolina, Article IV, Section 21, Clause 3 states:

> If a bill or joint resolution shall not be returned by the Governor within five days after it shall have been presented to him, Sundays excepted, it shall have the same force and effect as if he had signed it, unless the General Assembly, by adjournment, prevents return, in which case it shall have such force and effect unless returned within two days after the next meeting.

S.C. CONST. art. IV, § 21, cl. 3. The South Carolina Supreme Court in *Williams v. Morris*, 464 S.E.2d 97 (S.C. 1995), a case that, admittedly, discussed the pocket veto indirectly, determined that this section of the state constitution operated to prescribe two ways in which a bill may become law without the Governor's signature:

[6] In this way, 48 U.S.C. § 1423i differs from the analogous provision in the United States Constitution, as do the pocket veto clauses of several state constitutions.

> First, if the Governor does not return the bill with objections within five days, it becomes law automatically, provided the General Assembly still is in session on the fifth day. However, when the legislature is not still in session on the fifth day, then if the Governor does not return the bill with objections within the new time period which extends to the second day after the General Assembly's next meeting, the bill becomes law automatically.

Id. at 99[7]; *see Gilmore v. Brown*, 451 N.E.2d 235, 236 (Ohio 1983) (seemingly stating a similar proposition and also indicating that many courts have taken the same position).

[26] We read the Ninth Circuit *Bordallo* decision to comport comfortably with our elucidation of this above-described procedure. Moreover, this court has already stated that "[t]hough pre-existing precedent continues to operate until addressed by this Court, decisions of the federal courts are not controlling upon our construction of the law." *Sumitomo Construction Co. v. Zhong Ye, Inc.*, 1997 Guam 8, ¶ 6. Accordingly, in *Sumitomo*, instead of following local precedent, this court relied upon "federal authority . . . in direct contrast with Guam precedent established by the Appellate Division of the District Court of Guam." *Id.* We further articulated our position regarding previous federal decisions construing Guam law as follows:

> [W]hile we will not disturb precedent that is well supported in law and well reasoned, we clearly are within our authority to modify those interpretations previously addressed by federal courts. When choosing to make such changes, we will use our own independent and reasoned analysis of the issues before us. Moreover, based on our familiarity with these matters, we will give consideration to local law and customs, if applicable, and provide for their proper effect.

Id. (citing *People v. Quenga*, 1997 Guam 6, ¶ 7 n.4). Federal court decisions do not prevent this court from determining the correct interpretation of provisions of the Organic Act, Guam's constitution.

[7] It should be noted that in contrast to the Organic Act of Guam, the Constitution of South Carolina provides that if the Governor takes no action within the additional time period granted if the legislature is absent in order to consider legislation, the bill becomes law. In the analogous Organic Act provision, if after the additional time period the Governor has not acted, the bill does not become law.

[27] Our reading of this procedure whereby bills become law in the Organic Act also best fulfills the two "fundamental purposes" of the pocket veto provision described by the *Wright* Court as: "(1) That the [Executive] shall have suitable opportunity to consider the bills presented to him; and (2) that the [Legislature] shall have suitable opportunity to consider his objections to bills and on such consideration to pass them over his veto." *Wright*, 302 U.S. at 596, 58 S.Ct. at 400. The holding in *Wright* was limited by the Court to situations in which one house took a constitutionally permissible three-day recess so that Congress was still in session, thereby making the pocket veto provision inoperative. However, this *dicta* describing the purposes of the pocket veto provision has been cited frequently in other decisions, including the district court's reference in *Bordallo*, as providing wise interpretive guidance. *See, e.g.*, *Bordallo*, 416 F.Supp. at 89.

[28] We also note that the above-stated procedure by which bills are enacted is not dependent upon the Governor's supposed intent. The lower court and the Appellees place significant weight on the Governor's letter to the Legislature that allegedly evinced his intent to let the bill lapse into law. Appellants' Excerpts of Record, Exh. C at 2. However, the Governor's intent is not relevant; instead, what is relevant is the procedure outlined by the Organic Act. Determinations relying upon the Governor's intent are misplaced.

B. Ratification

[29] The court is unpersuaded by the Appellees' argument that the Legislature's subsequent actions ratified Bill 495. If a bill has been vetoed, as we conclude was the case with Bill 495, it is *void ab initio* and may not then be ratified. *See Dow Hydrocarbons & Resources v. Kennedy*, 694 So.2d 215, 218 n.7 (La. 1997). One cannot transform a vetoed bill into a passed bill merely by acting as if it had been

passed initially. The vetoed bill is dead, and subsequent legislation that purports to ratify the dead bill is "ineffectual to put life in the corpse." *Williams v. Dormany*, 126 So. 117, 121 (Fla. 1930) (citation omitted) (holding that a later statute may not validate an act not passed in conformity with constitutional requirements). Therefore, Bill 495 was not ratified by subsequent legislation.

CONCLUSION

[30] The three branches of government should work together smoothly, harmoniously, and respectful of each other's authority. Dialogue between the Executive and the Legislative Branches should be conducted in an orderly manner to better serve the people of Guam, and it is the duty of the Judicial Branch to interpret the law and thereby help preserve that orderliness. This philosophy underlies the spirit of this opinion.

[31] This court has frequently enforced the principle of separation of powers. *See Hamlet v. Charfauros*, 1999 Guam 18; *Borja v. Bitanga*, 1998 Guam 29; *People v. Lujan*, 1998 Guam 28; *In re: Request of the 24th Guam Legislature*, 1997 Guam 15; *People v. Quenga*, 1997 Guam 6; *Taisipic v. Marion*, 1996 Guam 9. In this system of checks and balances, the Governor must not be allowed to act in silence and the Legislature must not be allowed to subvert the Executive Branch. The Governor requires time to consider passed legislation. The Legislature cannot, by choosing to adjourn such that it is absent at the end of that time, exert pressure on the Governor to consider too hastily the legislation before him. Instead of forcing the Governor to return a bill before the Legislature adjourns, he has thirty days within which he may consider the legislation and sign if approved. This way, too, the Legislature may act if it disagrees with the Governor; otherwise, through the pocket veto provision of 48 U.S.C. § 1423i, they are intentionally rendered impotent. Additionally, if the Legislature would like to be able to receive

gubernatorial messages during a legislative absence, more formal procedures surrounding their receipt would need to be in place for the Legislature to ensure the status of bills and then be able to promptly attempt to override any vetoes if necessary. Finally, a vetoed law may not be ratified by subsequent mention in future law. This method of enactment was not contemplated by the Organic Act, and the Legislature should not be permitted to enact vetoed law through the ratification backdoor.

[32] Therefore the judgment of the lower court is **REVERSED**.

JOHN A. MANGLONA
Designated Justice

PETER C. SIGUENZA
Associate Justice

BENJAMIN J. F. CRUZ
Chief Justice