

**TRUST TERRITORY OF THE PACIFIC ISLANDS, Plaintiff-
Appellee**

v.

JESUS GILMAR, Defendant-Appellant

Criminal Appeal No. 66

Appellate Division of the High Court

Yap District

November 24, 1978

Appeal from conviction. The Appellate Division of the High Court, per curiam, held that where all records of the case in the trial and appellate divisions had been lost the conviction must be set aside.

Appeal and Error—Record on Review—Lost Records and Files

Where the very limited record on appeal from conviction indicated notice of appeal was filed and all records in trial and appellate divisions had been lost, the appeal must be allowed and the conviction would be set aside.

Counsel for Appellant:
Counsel for Appellee:

Public Defender's Office
District Attorney's Office

Before BURNETT, *Chief Justice*, GIANOTTI, *Associate Justice*, and LAURETA, *Temporary Justice by Appointment of the Secretary of Interior*

PER CURIAM

The very limited record available to us indicates that a Notice of Appeal was filed sometime in 1976, and that all records, both in the Trial and Appellate Divisions, appear to have been lost.

We need not inquire as to how this might have happened. We do conclude, however, that having nothing to review, the Appeal must be allowed, and conviction below be set aside.