IN THE SUPREME COURT

OF THE

REPUBLIC OF THE MARSHALL ISLANDS

Supreme Court Case No. 2025-0296

In Re: Interpretation of Section 9(3), Article III of the Constitution of the Republic of the Marshall Islands,
by:

Michael Kabua,
Petitioner-Appellant

BEFORE: CADRA, Daniel, C.J.; J. Michael Seabright, A.J.;[1] Richard Seeborg, A.J.[2]

CADRA, C.J. with whom Seabright, A.J. and Seeborg, A.J. concur.

I. INTRODUCTION

Petitioner-Appellant Iroijlaplap Michael Kabua appeals an order of the High Court dismissing his (amended) petition seeking a declaration that the election of Iroij Lanny Kabua as Chairman of the Council of Iroij (hereinafter COI) was unconstitutional under Article III, Section 9(3).

Article III, Section 9(3) provides that "no deputy of a member shall perform the functions of Chairman (of the COI) unless there is no member of the Council available to perform those functions." Iroijlaplap Michael Kabua claimed that Iroij Lanny Kabua's election as Chairman was unconstitutional under Section 9(3) because he was a "deputy" of Leroij Neimat Reimers and there was a member of the Council, namely Iroijlaplap Christopher Loeak, available to perform the functions of Chairman.

[1] Hon. J. Michael Sebright, United States District Judge, District of Hawaii.
[2] Hon. Richard Seeborg, United States District Judge, Chief Judge, Northern District of California.

The Respondent-Appellee COI filed a motion to dismiss the petition under Marshall Island's Rules of Procedure (MIRCP) Rule 12(b)(6) for failure to state a claim. The COI contended that Iroij Lanny Kabua was not a "deputy" of Leroij Neimat Reimers but, rather, was a "member" under Article III, Section 1(3). That Section provides that a person recognized by custom as "having rights and obligations analogous to those of Iroijlaplap ...shall be deemed eligible to be a member of the Council of Iroij as though he were an Iroijlaplap." According to the COI, Iroij Lanny Kabua was appointed by Leroij Neimat Reimers to serve as her representative or *man-maronron* on the COI. Under Marshallese custom, a *man-maronron* has "rights and obligations analogous to those of [an] Iroijlaplap." Reimers, although entitled to be a member, never asserted her right of membership on the COI. Therefore, according to the COI, Lanny was not a deputy of a member but a member in his own right under Section 1(3) and thus eligible to be elected and serve as Chairman of the COI.

The High Court concluded, based on the undisputed allegations of Kabua's petition and the uncontested evidence, that Iroij Lanny Kabua was not a deputy of Leroij Neimat Reimers but, rather, was a member in his own right under Article III, Section 1(3) and thus eligible to be elected and serve as Chairman. The High Court reasoned that "[u]nder the plain language of Article III, Section 9(1), for there to be a 'deputy of a member' of the COI, there must first be a 'member' to appoint the 'deputy.'" Although entitled to be a member of the COI under Article III, Section 1(2), Leroij Neimat Reimers never asserted her right to membership. Rather, Leroij Neimat Reimers had appointed Iroij Lanny Kabua to represent the *Mojen eo Iroijlaplap Laelan Kabua* as her representative or *man-maronron.* Pursuant to Marshallese custom a *man-maronron* has "rights and obligations analogous to that of an Iroijlaplap." Under Article III, Section 1(3), such an appointee "shall be deemed eligible to be a member of the COI as though he were an

Iroijlaplap." Consequently, Iroij Lanny Kabua was eligible to serve on the COI based on his own qualifications (or in his own right) and be elected Chairman. The High Court, accordingly, dismissed Kabua's petition for failure to state a claim. Iroijlaplap Michael Kabua timely appealed. For the reasons set forth below, we AFFIRM.

II. BACKGROUND

This case concerns membership on the COI and eligibility to be elected and to perform the functions of Chairman. The COI consists, principally, of eleven Iroijlaplaps (and one owner) from the Ralik and Ratak Chains. RMI Const., Art. III, Sec. 1(2). However, Article III, Section 1(3) also permits someone who is not an Iroijlaplap to serve on the COI if that person "becomes recognized, pursuant to the customary law or any traditional practice, as having rights and obligations analogous to those of Iroijlaplap." RMI Const. Art. III, Sec. 1(3).

Two other Constitutional provisions are relevant to this case. First, Article III, Section 9(1) permits a Council member who is "prevented by absence, illness or any other cause from attending any meeting of the Council" to appoint a "deputy" "who is qualified by reason of his family ties to the [absent] member" to attend the meeting. Unlike those who assume their role pursuant to Section 1(3) of Article III, deputies are not bona fide members of the COI. They are proxies that stand in for the member during temporary periods of absence.

Second, Article III, Section 5, governs the appointment of COI's leadership. Under that provision, "[t]he Chairman and the Vice-Chairman of the Council of Iroij shall be members of the Council elected to those offices by a majority of the members present and voting at a meeting of the council." Because Section 5 requires the Chairman and Vice-Chairman to be "members of the Council," deputies are not permitted to serve in those roles "unless there is no member of the Council available to perform those functions." RMI Const., Article III, Sec. 9(3).

This dispute begins with Leroij Neimat Reimers. Although she is entitled to be a member of the COI under Article III, Sec. 1(2), she has never claimed membership. In 2022 and 2023, she appointed a younger relative, Iroij Jeimata Kabua, to serve on the Council. In 2024 and 2025, she appointed Iroij Lanny Kabua to serve on the council as her *man-maronron*. In both 2024 and 2025, Iroij Lanny Kabua was elected to be Chairman of the Council pursuant to Article III, Sec. 5.

Iroijlaplap Michael Kabua is the reigning Iroijlaplap over *Mojen eo Iroijlaplap Bwieo Jeiraata Kabua* and is a member of the Council. In January 2025, he filed his petition in the High Court seeking a declaration that Iroij Lanny Kabua was not "qualified to be nominated and ...voted to be Chairman for the Council when an Iroijlaplap is available to perform that function." RMI Const., Article III, Section 9(3). Iroijlaplap Michael Kabua argued that Iroij Lanny Kabua could not have been validly elected to be Chairman because he was not a member of the COI but, rather was just Leroij Neimat Reimer's deputy. Iroijlaplap Michael Kabua's theory was that those Iroijlaplaps referenced in Article III, Sec. 1(2) assume their membership or seats on the COI *automatically*. Therefore, whether she affirmatively claimed her seat or not, Leroij Neimat was the real representative on the Council, and she could not endow Iroij Lanny Kabua with anything more than the powers of her deputy.

The respondent, COI (Iroij Lanny Kabua) moved to dismiss the petition for failure to state a claim under MIRCP, Rule 12(b)(6). The High Court first resolved two issues in Iroijlaplap Michael Kabua's favor. First, it determined, consistent with settled practice and the Constitution's plain text, that a mere "deputy" is ineligible to serve as Chairman of the Council unless no full member is available to perform the Chairman's duties. Second, it concluded that Iroijlaplap Michael Kabua had standing to seek declaratory relief because an illegal election of

someone to the Chairmanship would have deprived him of the right to nominate his candidate of choice.

The High Court then proceeded to the central question. The court began by recognizing that "the practice of the [Council] has been that a reigning Iroijlaplap (or Leroij) can appoint and allow younger relatives to represent their *mojen* (domain) as a member of the [Council] and be elected Chairman." It then concluded that Leroij Neimat did just that – that is, "in accordance with Marshallese custom law and traditional practice, appoint Iroij Lanny Kabua to be a member of the [Council] representing Moje neo Iroijlaplap Lelang Kabua."

The High Court found, based on the undisputed evidence, that Leroij Neimat Reimers had appointed Iroij Lanny Kabua as her representative or *man-maronron* to act on her behalf on the Council. Under custom, a *man-maronron* acts on behalf of the appointing Iroijlaplap and therefore has "rights and obligations analogous to [an] Iroijlaplap." Leroij Neimat Reimers had never asserted her membership on the COI and, therefore, was not a member. Because Leroij Neimat Reimers was not a member of the COI, it follows that Iroij Lanny Kabua was not a deputy of a member. As stated by the High Court, "[u]nder the plain language of Article III, Section 9(1), for there to be a 'deputy of a member' of the COI, there must first be a 'member' to appoint the 'deputy.'" The High Court thus concluded that Iroij Lanny Kabua was not a deputy of Leroij Neimat Reimers but, rather, was a member of the COI in his own right under Article III, Section 1(3). The High Court, accordingly, dismissed Iroijlaplap Michael Kabua's petition for failure to state a claim under MIRCP 12(b)(6). This appeal followed.

III. THE ISSUES ON APPEAL

Iroijlaplap Michael Kabua presents five issues for review which we set forth *verbatim*:

1. Did the High Court err in holding that Respondent Chairman Lanny Kabua is a member of the COI in his own right, rather than recognizing his appointment as a deputy of Leroij Neimat Reimers?
2. Did the High Court err in concluding that Leroij Neimat Reimers must affirmatively claim membership to the COI, despite Article III, Sec. 1(2) automatically granting her membership as the reigning Leroij for Laelan's mojen, one of the four (4) Iroijlaplap members from the Ralik Chain?
3. Did the High Court err in failing to recognize that respondent Chairman Lanny Kabua's appointment as "Man-maronron" by Leroij Neimat Reimers constitutes the valid appointment of a deputy under Article III, Section 9 of the constitution?
4. Did the High Court err in failing to interpret Article III, Sec. 1(2), Sec. 1(3) and Sec. 9 together, resulting in an incorrect understanding of COI membership and deputies' authority? And
5. Did the High Court err in granting the dismissal order before Respondent filed an Answer, thereby prematurely disposing of a Constitutional claim without factual development or evidentiary hearing?

Resolution of the first four issues listed above are dependent upon how the Court resolves the central question of whether Iroij Lanny Kabua was a deputy of Leroij Neimat Reimers or was a member of the COI in his own right. We address each of the issues raised by Iroij Michael Kabua below.

IV. STANDARD OF REVIEW

Alleged errors of law are reviewed *de novo* (*Jack v. Hisaiah*, 2 MILR 207, 209 (2002)) as are interpretations of the Constitution (*Kramer & PII v. Are & Are*, 3 MILR 57 (2008)). Because a

ruling on a motion to dismiss for failure to state a claim is a ruling on a question of law, we review dismissals under MIRCP, Rule 12(b)(6) *de novo*. *See, e.g., Momotaro, et al. v. Chief Elec. Off.*, 2 MILR 237, 241 (2004).

On a Rule 12(b)(6) motion, "[a] complaint may be dismissed as a matter of law for two reasons: (1) lack of a cognizable legal theory or (2) insufficient facts under a cognizable legal theory." *Iroij Michael Kabua, et al. v. M/V Mell Springwood, et al.*, S.Ct. Case No. 2016-001 at 19 (Slip Op. 10/22/19.) In ruling on a Rule 12(b)(6) motion the court accepts all well-pled facts of the complaint as true. *See, e.g., Hawkins v. Kroger Company*, 906 F.3d 763 (9th Cir. 2018). We do not, however, defer to legal conclusions that are not supported by factual allegations. *See, e.g., Ashcroft v. Igbal*, 556 U.S. 662 (2009)(the tenant requiring courts to accept all allegations as true is inapplicable to legal conclusions.); *Rosenquist v. Economou*, 3 MILR 144, 151 (2011)(In reviewing complaints on a motion to dismiss, "[p]laintiffs are entitled to all reasonable factual inferences that logically flow from the particularized facts alleged, but conclusory allegations are not considered as expressly pleaded facts or factual inferences.")

V. DISCUSSION

A. The High Court Did Not Err in Holding that Iroij Lanny Kabua is a Member of the COI in His Own Right.

1. The plain language of the Constitution, Section 1(3) deems Iroij Lanny Kabua eligible to be a member of the COI.

The dispositive issue of this appeal is thus whether Iroij Lanny Kabua is a member of the COI in his own right under Section 1(3) or is a deputy of Leroij Neimat Reimers under Section 9(1).

Our analysis begins with examining the plain language of the constitutional text. *See, e.g., NLRB v. Enterprise Leasing Co. Southeast, LLC*, 722 F.3d 609, 664 (4th Cir. 2013)("[T]he first

rule of constitutional interpretation is, of course, to apply the plain meaning of the text.") (citing *District of Columbia v. Heller*, 554 U.S. 570, 576 (2008)). If the constitutional text is clear, then no construction or interpretation is necessary. *United States v. Missouri Pac. R.R.*, 278 U.S. 269, 278 (1929)(per Butler, J.)("[W]here the language of an enactment is clear, and construction according to its terms does not lead to absurd or impractical consequences, the words employed are to be taken as the final expression of the meaning intended."); *Caminetti v. United States*, 242 U.S. 470, 485 (1917)(per Day, J.)("Where the language is plain and admits of no more than one meaning, the duty of interpretation does not arise."); *Larson v. Seattle Popular Monorail Authority*, 131 P.3d 892, 895 (WA. 2006)("As a general rule, when interpreting constitutional provisions, we look first at the plain language of the text and will accord it its reasonable interpretation. If the text is clear, then no construction or interpretation is necessary.") There is, therefore, no need to harmonize different sections or provisions of the Constitution if there is no ambiguity, inconsistency or conflict between those provisions.

The plain language of the Constitution clearly establishes that there are two classes of people eligible to become members of the COI:

(1) those holding the Iroijlaplap title on the domains listed in Article III, Section 1(2)[3] and

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[3] Article III, Sec. 1(2) provides:

> The Council of Iroij shall consist of 5 eligible persons from districts of the Ralik Chain and 7 eligible persons from districts of the Ratak Chain of the Republic selected as follows: [from the Ralik Chain excluding Enewetak and Ujelang, 4 Iroijlaplaps; from Enewetak and Ujelang, 1 Iroijlaplap; from Mili, 1 Iroijlaplap; from Arno, 1 Iroijlaplap; from Mejit, 1 Iroijlaplap; from Majuro, 1 Iroijlaplap; from Airok (Maloelap), 1 Iroijlaplap; from Aur, Maloelap (excluding Airok), Wotje, Utrik and Ailuk, 1 Iroijlaplap; from Likiep, 1 Owner.]

(2) those persons "having rights and obligations analogous to those of Iroijlaplap" set forth in Article III, Section 1(3).[4]

The eligibility of these two classes of people to serve as members of the COI is further reflected in Section 1(5)[5] which recognizes that both classes of person defined by Sections 1(2) and 1(3) are eligible to become members of the COI.

Section 9(1), on the other hand, deals with the appointment of a deputy by a member.[6] Under the plain language of that Section, for there to be a deputy there must first be a member to appoint that deputy. The text of that Section also clearly indicates that the appointment of a deputy is for a temporary purpose: i.e., to attend a meeting or conference of the COI when the member "is prevented by absence, illness or any other cause from attending" such meeting or

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[4] Article III, Section 1(3) provides:

> If, in any district, a person or group of persons becomes recognized, pursuant to the customary law or to any traditional practice, as having rights and obligations analogous to those of Iroijlaplap, that person, or a member of that group nominated by the group, shall be deemed to be eligible to be a member of the Council of Iroij as though he were an Iroijlaplap.

[5] Article III, Section 1(5) states:

> If, in the case of any district, there is for any reason no person *eligible to be a member of the Council of Iroij in accordance with paragraphs (2) or (3) of this Section*, the council of Iroij shall as soon as practicable proceed, by resolution, to appoint as a member of the Council a person who, in the opinion of the Council, having regard to the customary law and any traditional practice, is qualified by reason of his family ties to a person who, but for that reason, would have been eligible to be a member of the Council from that district. (emphasis added).

[6] Article III, Section 9(1) states:

A member of the council of Iroij who is prevented by absence, illness or any other cause from attending any meeting of the Council or of any committee thereof or of any joint committee or joint conference may appoint a person who is qualified by reason of his family ties to that member to be his deputy at that meeting.

conference. Leroij Neimat Kabua did not appoint Iroij Lanny Kabua as a temporary deputy to represent her on the COI due to "absence, illness, or any other cause." Rather, she appointed Iroij Lanny Kabua to serve on the COI indefinitely.

Section 9(1), by its plain language, does not apply to the facts presented by this case because (1) Leroij Neimat Kabua did not appoint Iroij Lanny Kabua to attend a meeting due to an "absence, illness, or any other cause" and (2) Leroij Neimat Reimers was not a member of the COI.

Iroijlaplap Michael Kabua makes several arguments that Leroij Neimat Kabua is a member of the COI and, because she is a member, Iroij Lanny Kabua must be her deputy and therefore not eligible to be elected Chairman.

First, Iroij Michael Kabua argues that only the holder of the traditional Iroijlaplap (or Leroij) title can be a member of the COI. According to Iroijlaplap Michael Kabua, Iroij Lanny Kabua cannot be a member of the COI because he does not hold the Iroijlaplap title.

Second, he argues that Section 1(2) *automatically* makes Leroij Neimat Reimers a member of the COI whether she accepts that position or not.

Iroijlaplap Michael Kabua's argument that membership on the COI is limited to the Iroijlaplaps for those domains listed in Section 1(2) cannot be reconciled with the plain language of Section 1(3). If Iroijlaplap Michael Kabua is correct that membership on the Council is limited to those Iroijlaplaps then Section 1(3) makes no sense. It is a well settled rule of constitutional construction or interpretation that effect should be given to all its provisions, and none be rendered superfluous or meaningless. *See, e.g., Discover Bank v. Vaden*, 396 F.3d 366, 369 (4th Cir. 2005)("[I]t is a classic cannon of statutory construction that courts must give effect to every provision and word in a statute and avoid any interpretation that may render statutory terms

superfluous or meaningless.") We therefore conclude that Iroijlaplap Michael Kabua's argument on this point lacks merit.

2. The High Court did not err in concluding that Leroij Neimat Reimers must affirmatively claim membership on the COI.

Iroijlaplap Michael Kabua argues "[t]he High Court's conclusion that Leroij Neimat Reimers is not a member unless she 'claims' membership imposes a requirement found nowhere in Article III. Section 1(2) confers membership *automatically* upon those holding the specified traditional titles. The constitutional text does not condition membership on self-assertion or formal claim; it is a status conferred by law."

Iroijlaplap Michael Kabua's argument fails on several levels:

First, as discussed above, the plain language of Sections 1(2) and (3) indicates that the Iroijlaplaps of the domains set forth in Section 1(2) as well as those persons who "have rights and obligations analogous to those of [an] Iroijlaplap" under Section 1(3) are eligible to be members of the COI. The Constitutional text does not favor one class of eligible persons over the other; both classes of persons are eligible to become members.

Second, the Constitution does not state that those Iroijlaplaps listed in Section 1(2) *automatically* become members of the COI. While it is true that the constitutional text does not condition membership under Section 1(2) on self-assertion or formal claim, it is equally true that there is no language in the text of the Constitution which confers automatic membership of those Iroijlaplaps referenced in Section 1(2) on the COI. While it may be the intent of the framers that the Iroijlaplaps listed in Section 1(2) have *priority* in membership over those persons deemed eligible for membership under Section 1(3), there is no textual language *automatically* making an Iroijlaplap of a listed domain a member and requiring that person to perform to perform the functions of a member. We do not add words to a statute or constitution to impose some

requirement(s) not set forth by the plain meaning of the text. *See, e.g., Matter of Borba*, 736 F.2d 1317, 1320 (9th Cir. 1984)("The court cannot omit or add to the plain meaning of a statute.") If the framers intended membership to be *automatic,* they could have stated so but didn't.

Third, Iroijlaplap Michael Kabua's argument that "[b]y requiring an affirmative claim (to membership), the High Court effectively rewrote the Constitution" is without merit. The High Court's holding that Leroij Neimat Reimers must *affirmatively* claim membership is not adding to the text but, rather, is a recognition that the text does not impose *automatic* membership on an eligible Iroijlaplap (or Leroij). As pointed out by the High Court, *automatic* membership without consent or affirmation of membership by the Iroijlaplap would run counter to the Constitutional prohibition against involuntary servitude embodied in the Bill of Rights, Article II, Section 2.

Finally, Iroijlaplap Michael Kabua's argument fails because to reach his conclusion that Leroij Neimat Reimers is *automatically* a member without her consent or acceptance of that position he must show more: that COI membership goes automatically to the Iroijlaplap and *cannot thereafter be transferred.* That is, he must establish that COI membership automatically vested in Leroij Neimat Reimers and must remain with her as long as she remains the reigning Leroij. His argument that Article III, section 1(2), which states that the COI "shall consist of" the Iroijlaplaps of the various domains cannot be reconciled with the very next provision. Article III, Section 1(3) expressly permits an alteration to the composition of the COI by empowering "a person ...recognized, pursuant to the customary law or to any traditional practice, as having rights and obligations analogous to those of Iroijlaplap ...[to serve as] a member of the COI as though he were an Iroijlaplap." If Iroijlaplap Michael Kabua is correct that the composition of the COI stems from the traditional roles of those Iroijlaplaps referenced in Section 1(2) and cannot be changed (that is, Leroij Neimat Reimers is *automatically* a member, whether she

consents to membership or not, and cannot transfer that membership), then Section 1(3) would make no sense and would be rendered meaningless. Constitutional provisions should not be interpreted in such a way as to render any provision meaningless.

We therefore reject Iroijlaplap Kabua's contention that Leroij Neimat Reimers *automatically* became a member under Section 1(2) and conclude the High Court did not err in holding that Leroij Neimat Reimers must affirmatively claim membership on the COI to be a member.

3. The High Court did not err in "failing to recognize that Respondent Lanny Kabua's appointment as '*Man-maronron*' by Leroij Neimat Reimers constitutes the valid appointment of a deputy under Article III, Section 9 of the Constitution."

Iroijlaplap Michael Kabua next argues that "[t]he appointment of a *man-maronron* is the appointment of a deputy under Article III, Section 9." This argument also fails under the facts presented by this case.

The undisputed facts were that Leroij Neimat Reimers never claimed membership on the COI and that she appointed Iroij Lanny Kabua to represent the *mojen eo Laelan Kabua* on the COI as her *man-maronron*. It is also undisputed that under Marshallese custom a *man-maronron* has "rights and obligations analogous those of [an] Iroijlaplap." As reasoned by the High Court, "[u]nder the plain language of Article III, Section 9(1), for there to be a 'deputy of a member' of the COI, there must first be 'member' to appoint the 'deputy.'" As discussed above, Leroij Neimat Reimers was not a member and, under the plain language of Section 1(3), Iroij Lanny Kabua is deemed eligible to be a member because a *man-maronron* has rights and obligations "analogous to those of an Iroijlaplap." *See, e.g., Lorak v. Philippo, et al*, 4 MILR 391, 396 fn. 3 (2022).[7] Because Leroij Neimat Reimers appointed Iroij Lanny Kabua to represent her on the

[7] *Man-maronron* refers to "a Marshallese custom which applies only within a *bwij* if there are male siblings who are younger than the female siblings. With the approval and appointment by the older female, the male will do all the work for her. However, when it comes to making the final decisions, it is solely the responsibility of the elder

COI and given the historical practice of Iroijlaplaps appointing representatives on the COI to act on their behalf, we conclude that Iroij Lanny Kabua is a member of the COI and not a deputy of Leroij Neimat Kabua.

4. **The High Court did not err in "failing to interpret Article III, Section 1(2), (3) and Section 9 together."**

Iroijlaplap Michael Kabua argues the High Court erred in "failing to interpret Article III, Sections 1(2), 1(3) and Section 9 together, resulting in an incorrect understanding of COI membership and deputies' authority." Harmonizing these Sections together, Iroijlaplap Michael Kabua contends that Iroij Lanny Kabua is merely a deputy of Leroij Neimat Reimers. Because there are only 12 members of the COI authorized by Section1(2) and assuming Leroij Neimat Reimers is *automatically* a member then it would follow that Iroij Lanny Kabua would have to be Neimat's deputy and therefore not qualified to be elected as Chairman under Section 9(3).

Iroijlaplap Michael Kabua argues:

> Constitutional provisions must be read in harmony, giving effect to all parts. Section 1(2) defines who the members are, Section 9(1) provides for deputies to represent those members. The High Court's analysis treated Section 9(3) as an independent source of membership, severed from the membership definitions in Section 1(2).

This argument misstates the High Court's decision. The High Court did not treat Section 9(3) as an "independent source of membership." Rather, the High Court clearly recognized that Sections 1(2) and 1(3) deal with membership on the COI and 9(1), 9(3) deal with the appointment of deputies by a member. Irojlaplap Michael Kabua's argument that Section 1 must be read together with or harmonized with Section 9 to reach the conclusion that Iroij Lanny

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sister." *See, e.g.*, TRC Opinion/Summary of Case in *Kalip Mack v. Toney Robert, et al.*, Civil Action Nos. 2005-127 & 2007-217 Consolidated, 8/4/2011.

Kabua is a deputy and not a member not only ignores the plain meaning of Section 1 and Section 9 but also ignores basic rules of constitutional or statutory construction.

Constitutional provisions or statutes which deal with separate subjects need not be harmonized. *See, e.g., Kibbey v. State*, 733 N.E.2d 991, 996 (IN 2000)("A court probes two statutes claimed to be in conflict and determines whether they cover the same subject matter by comparing their elements. *Citation omitted.* When two statutes contain quite different elements, a court must conclude that the 'statutes do not address the same subject matter,' and there no longer remains a 'need to attempt to harmonize the statutes ...." This same rule of construction applies also to constitutional interpretation. *See, e.g., State v. Boyse*, 303 P.3d 830, 832 (NM 2013)("In interpreting the Constitution, the rules of statutory construction 'apply equally to constitutional construction.'")

Section 9(1) need not be harmonized with Sections 1(2) or (3) because they deal with separate subject matters:

Sections 1(2) and (3) deal with membership on the COI;

Section 9(1) deals with the temporary appointment of a deputy by a member who is unable to attend a function of the COI.

We conclude that there is need to harmonize Article III, Sections 1(2), 1(3) with Section 9 because there is no conflict between those Sections and those Sections deal with different subject matters.

B. The High Court Did Not Err In Granting the Dismissal Motion Before Respondent Filed An Answer, Thereby Prematurely Disposing of a Constitutional Claim Without Factual Development or Evidentiary Hearing.

Irojlaplap Michael Kabua claims the High Court erred in granting Respondent's Rule 12(b)(6) motion without "factual development or evidentiary hearing." Although this issue is

listed in his Notice of Appeal and referenced in his Opening Brief, he does not argue the point further in his briefing or oral argument. Issues raised but not briefed are waived. *See, e.g., Independent Towers of Washington v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003)("Our circuit has repeatedly admonished that we cannot 'manufacture arguments for an appellant' and therefore we will not consider any claims that were not actually argued in appellant's opening brief. *Citation omitted.* Rather, we 'review only issues which are argued specifically and distinctly in a party's opening brief.' Significantly, '[a] bare assertion of an issue does not preserve a claim.'")

Further, as argued by COI (Lanny Kabua), a hearing or evidentiary hearing is not typically required or allowed on a Rule 12(b)(6) motion to dismiss. *See, e.g., Mann v. Conlin*, 22 F.3d 100, 103 (6th Cir. 1994).

VI. CONCLUSION

For the reasons set forth above, we AFFIRM the order of the High Court dismissing Iroijlaplap Michael Kabua's petition for failure to state a claim under MIRCP, Rule 12(b)(6).

Dated: 2/27/26

/s/ Hon. Daniel Cadra, C.J.

/s/ Hon. J. Michael Seabright, A.J.

/s/ Hon. Richard Seeborg, A.J.