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CNMI SUPREME COURT
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Case No.: ADM-2017
Nora Borja

IN THE
SUPREME COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

IN RE THE NORTHERN MARIANA ISLANDS
RULES OF CRIMINAL PROCEDURE

ADMINISTRATIVE ORDER 2017-ADM-0010-RUL

ORDER

¶ 1 On March 2, 2017, we submitted to the Twentieth Northern Marianas Commonwealth Legislature for approval the attached proposed amendment to the *Northern Mariana Islands Rules of Criminal Procedure*. The proposed amendment creates a new rule, 11-1, as an addition to the *Northern Mariana Islands Rules of Criminal Procedure* adopted on January 22, 1995.

¶ 2 Sixty (60) days has elapsed since its submission and neither house of the Legislature has disapproved of the proposed rules.

¶ 3 IT IS HEREBY ORDERED that the *Northern Mariana Islands Rules of Criminal Procedure Rule 11-1*, attached as Exhibit A, is permanent pursuant to article 4, section 9 of the NMI Constitution.

SO ORDERED this 3rd day of May, 2017.

/s/ _____
ALEXANDRO C. CASTRO
Chief Justice

/s/ _____
JOHN A. MANGLONA
Associate Justice

/s/

PERRY B. INOS
Associate Justice

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
COMMONWEALTH SUPERIOR COURT**



E-FILED
CNMI SUPREME COURT
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ANDS
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Nora Borja

RULES OF CRIMINAL PROCEDURE

IV ARRAIGNMENT AND PREPARATION FOR TRIAL

**RULE 11-1
PLEA IN ABEYANCE**

(a) Definitions.

- (1) A plea in abeyance is an order entered by a problem-solving court accepting a plea of guilty or nolo contendere from the defendant but not, at that time, entering judgment of conviction against the defendant nor imposing sentence upon the defendant on condition that the defendant comply with specific conditions as set forth in a plea in abeyance agreement.
- (2) A plea in abeyance agreement is an agreement entered into between the government and defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a guilty or nolo contendere plea may be held in abeyance.

(b) Permitted Use.

- (1) A plea in abeyance may only be used in conjunction with defendant's entry into a problem-solving court.

(c) Plea in Abeyance Agreement.

- (1) After entry of a plea of guilty or nolo contendere but prior to entry of judgment of conviction and imposition of sentence, the court may, upon motion of both the government and the defendant, hold the plea in abeyance and not enter judgment of conviction against the defendant nor impose sentence upon the defendant.
- (2) The defendant shall be represented by counsel during plea negotiations and at the time of acknowledgment and affirmation of any plea in abeyance agreement, unless the defendant shall have knowingly, voluntarily, and intelligently waived the right to counsel.
- (3) The defendant has the right to be represented by counsel at any court hearing relating to the defendant's plea in abeyance agreement.
 - (A) A plea in abeyance agreement shall be in writing,
 - (B) specify the requirements and conditions agreed to by the defendant, and
 - (C) be executed by the government, the defendant, and the defendant's counsel in the presence of the court.
- (5) A plea shall not be held in abeyance for a period longer than 24 months absent an extension made by the judge upon a showing of good cause.

(6) A plea in abeyance agreement shall not be accepted unless the defendant, before the court and in the plea in abeyance agreement, knowingly, voluntarily, and intelligently waives time for sentencing. This does not limit other waivers that may be included in the plea in abeyance agreement.

(d) Manner of Entry of Plea and Powers of the Court.

(1) Consideration of any plea in anticipation of a plea in abeyance agreement shall be done in full compliance with the provisions of this rule.

(2) A plea in abeyance agreement may provide that the court may, upon finding that the defendant has successfully completed the terms of the agreement:

(A) reduce the degree of the offense and enter judgment of conviction and impose sentence for a lower degree of offense; or

(B) dismiss the charges.

(3) Upon finding that a defendant has successfully completed the terms of a plea in abeyance agreement, the court may reduce the degree of the offense or dismiss the charges only as provided in the plea in abeyance agreement or as agreed to by all parties.

(4) The terms of a plea in abeyance agreement may include:

(A) an order that the defendant pay a nonrefundable plea in abeyance fee, which shall not exceed in amount the maximum fine which could have been imposed upon conviction and sentencing for the same offense as set forth in 6 CMC § 4101;

(B) an order that the defendant pay restitution to the victims of the defendant's actions as provided in 6 CMC § 4109;

(C) an order that the defendant pay the costs of any remedial or rehabilitative program required by the terms of the agreement; and

(D) an order that the defendant comply with any other conditions which could have been imposed as conditions of probation upon conviction and sentencing for the same offense.

(5) A court may not enter a plea in abeyance without the consent of both the government and the defendant.

(e) Violation of Plea in Abeyance Agreement.

(1) The court, through a written motion and supported by an affidavit, made by the government, or upon the court's own motion, shall issue an order to show cause against the defendant for violating any condition of the plea in abeyance agreement. The order to show cause shall state the time and place for the hearing and served on the defendant and the attorney of record at least 7 calendar days before the hearing date.

(2) If a problem-solving court finds that the defendant has violated the plea in abeyance agreement such that defendant is terminated from that problem-solving court's program, then

the problem-solving court judge shall accept the plea and enter judgment of conviction against the defendant for the offense to which the original plea was entered.

- (3) The termination of a plea in abeyance agreement and subsequent entry of judgment of conviction and imposition of sentence shall not bar any independent prosecution arising from any offense that constituted a violation of any term or condition of an agreement whereby the original plea was placed in abeyance.