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IN THE SUPERIOR COURT
OF THE
COMMONWEALTH OF THE NORTHER MARIANA ISLANDS

COMMONWEALTH OF THE NORTHERN)
MARIANA ISLANDS,)
)
Plaintiff,)
)
vs.)
)
GORDON B. SALAS,)
)
Defendant.)
_____)

Criminal Case No: 01-0295 C

**ORDER DENYING
DEFENDANT'S MOTION FOR
BAIL MODIFICATION**

I. PROCEDURAL BACKGROUND

This matter came before the Court on June 28, 2001 at 3:30 p.m., in courtroom 223 A on Defendant GORDON B. SALAS'S (hereinafter SALAS) Motion for Bail Modification. Assistant Attorney General Dan Cohan, Esq. appeared on behalf of Plaintiff. Robert T. Torres, Esq. appeared on behalf of Defendant SALAS. The Court, having heard the arguments of counsel and being fully informed of the proffered arguments now renders its written decision.

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II. ISSUE PRESENTED FOR REVIEW

The issue presented before this Court is whether under Rule 46 (a) (2) of the Com. R. Crim. P., the previously set condition of release (10,000 U.S.D. cash bail) for Defendant SALAS should be modified.

III. FACTUAL ANALYSIS

The Court must consider the following factors when determining the conditions of release: (1) the nature and circumstances of the offense charged, the weight of the evidence against the accused, the accused’s family ties, employment, financial resources, character and mental condition, the length of his/her residence in the community, his/her record of convictions and his/her record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings. Com. R. Crim. P. 46 (a) (2).

Of the above factors, the nature and circumstances of the offense charged, the weight of the evidence, the character and mental condition of the accused, and the financial resources of the Defendant SALAS weighed most heavily in favor of denying the request for modification.

The nature and circumstances of the charged offenses are grave. Count 1 of the Information charges SALAS with Assault with a Dangerous Weapon in violation of 6 CMC § 1204 (a), Count 2 with Criminal Mischief in violation of 6 CMC § 1803 (a) (1), Count 3 with Criminal Mischief in violation of 6 CMC § 1803 (a) (1), and Count 4 with Criminal use of a Firearm in violation of 6 CMC 2230 (b).

The factual circumstances surrounding the charged offenses were particularly troubling for the Court. It has been alleged the Defendant SALAS fired a .223 (5.56 x 45 mm) AK 47 type assault rifle through a window of an occupied residence in the late evening. Further, the weight of evidence against the accused in this matter is substantial because later lab results provided strong evidence that the shells recovered from the inside walls of the residence were in fact fired from the rifle that was recovered from SALAS.

1 Defendant SALAS is a police officer. This is a position of great trust and
2 responsibility. As a police officer, SALAS undoubtedly knew of the potential for serious
3 harm from allegedly firing an assault weapon into an occupied dwelling. This type of
4 behavior calls into play serious doubts regarding the character and mental condition of
5 SALAS because a reasonable person does not fire an assault weapon into an occupied
6 dwelling. This act demonstrates to the Court that SALAS may pose a risk to the community if
7 released from custody free of restrictive conditions other than the ones already imposed,
8 subject to modification for good cause. Preventing danger to the community is a legitimate
9 goal of the Court.

10 Lastly, SALAS has not submitted any evidence - documentary, testimonial or
11 otherwise, supporting a conclusion that he is financially unable to gather the required cash
12 bail. The Court may reconsider the current pre-release condition if such evidence is presented.

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14 **IV. CONCLUSION**

15 For the foregoing reasons, Defendant SALAS'S Motion for Modification of Bail is
16 **DENIED.**

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20 So ORDERED this 29th day of June, 2001.

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22 /s/
23 DAVID A. WISEMAN, Associate Judge