

IN THE SUPERIOR COURT

OF THE

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

COMMONWEALTH OF THE NORTHERN)	TRAFFIC CASE NO. 01-02031
MARIANA ISLANDS,)	
)	JUDGMENT AND
Plaintiff,)	COMMITMENT ORDER
v.)	
)	
JUAN C. CABRERA,)	
)	
Defendant.)	
_____)	

This matter came before the court on January 15, 2002 at 1:30 p.m. for a change of plea as to Defendant, **JUAN C. CABRERA**. The Government was represented by Assistant Attorney General, Steve Wadsworth, and the Defendant appeared with counsel, Douglas Rhodes, Assistant Public Defender.

At the outset of the hearing, the Court was advised through counsel, that the Defendant will enter a plea of “**Guilty**” to the offense of **Homicide by Vehicle** as charged in violation of **9 CMC § 7710 (a)**. The Government moved to dismiss the other Counts in the Information.

ADVISEMENT AND WAIVER OF RIGHTS

The Defendant was then advised of his constitutional rights and the consequences of a plea of Guilty, The Defendant was further advised of the maximum possible penalty of the offense and any minimum penalty required by the statute. The Defendant waived his rights and entered a plea of “**Guilty**” to the offense of **Homicide by Vehicle**, in violation of **9 CMC § 7110(a)**.

FOR PUBLICATION

ACCEPTANCE OF PLEA OF GUILTY

The Court accepted Defendant's plea of Guilty to the offense after finding that (1) the Defendant's decision to plead Guilty is freely, voluntarily, and intelligently made; (2) he has had the advice of competent counsel whom he said he was satisfied with; (3) he understood the consequences of his plea of Guilty; and, (4) there is a factual basis for the plea of Guilty. Accordingly,

ADJUDICATION OF GUILT

IT IS HEREBY ADJUDGED AND DECREED that Defendant, **Juan C. Cabrera**, is “**Guilty**” of the offense of **Homicide by Vehicle**, in violation of **9 CMC § 7110(a)**, as charged.

SENTENCE

The Court has reviewed the plea agreement and will accept the terms of the plea agreement. However, it should be noted that the statute penalizing this violation calls for a minimum of 90 days in jail with a maximum of 10 years. It is this Court's view that the sentencing range was specifically intended to allow for a case by case analysis of Vehicular Homicide cases. Vehicular Homicide cases, for purposes of sentencing, will be treated on a case by case basis by this Court and it is the Court's understanding from both counsel that there are, indeed, mitigating circumstances that justify the sentence proposed in the plea agreement. There was no speeding, reckless driving or other serious driving infraction; there was no evidence of alcohol use; there were no aggravating circumstances warranting a longer sentence. Alcohol use, speeding or other serious traffic offenses would have prompted this Court to reject the plea agreement. The Court wants to make it very clear that this case is an exception. Therefore, the Court will accept the terms of the plea agreement and now pronounce the Court's sentence as proposed by the plea agreement.

After considering the facts of this case and the recommendations of counsel, the Court hereby sentences the Defendant as follows:

1. The Defendant is sentenced to ten (10) years imprisonment, all suspended except one hundred (120) days, under the following conditions:
 - a. The Defendant will be on supervised probation for ten (10) years, under the direction and supervision of the Office of Adult Probation. The Defendant will observe all directives imposed by the Office of Adult Probation;
 - b. The Defendant will report to the Division of Corrections, on March 1, 2002, at 8:00 a.m., to serve the one hundred twenty (120) days sentence. The Division of Corrections shall release the Defendant on June 29, 2002, at 12:01 a.m.;
 - c. The Defendant will pay restitution in an amount to be determined within ninety (90) days;
 - d. The Defendant will pay a fine of \$1,000, payable at \$100 per month, the first payment commencing on or before March 1, 2002, and the second payment commencing on or before August 1, 2002 and each month thereafter;
 - e. The Defendant will pay an assessment fee of \$25 as required by PL 11-105, within thirty (30) days;
 - f. The Defendant will pay a probation fee of \$100 as required by PL 11-82, within thirty (30) days;
 - g. All other Counts of the Information are Dismissed;
 - h. The Defendant must obey all CNMI and Federal laws. Minor traffic citations shall not constitute a violation of this condition;
 - i. After sentence was pronounced, the Defendant was advised that he had the right to appeal within thirty (30) days from the date of entry of this order.

The total of the above combined fees and fines is one thousand one-hundred twenty-five (\$1,125.00) dollars.

The Defendant was further advised that failure to comply with any of the above conditions shall constitute a violation of the terms and conditions of the suspended sentence and shall subject the Defendant to revocation proceedings.

DATED: January 21, 2002.

/s/ _____
DAVID A. WISEMAN, Associate Judge

NOTE: ANY INCONSISTENCY BETWEEN THIS WRITTEN ORDER AND THE ORAL PRONOUNCEMENT OF SENTENCE IN OPEN COURT WILL BE RESOLVED IN FAVOR OF THIS WRITTEN ORDER. THEREFORE, COUNSEL MUST MOVE THE COURT FOR A CORRECTION OF ANY DISCREPANCY OR IT SHALL BE DEEMED WAIVED.