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For Publication

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

**COMMONWEALTH OF THE NORTHERN  
MARIANA ISLANDS,**

**Criminal Case No. 04-0112**

Plaintiff,

v.

**FRANK S. ADA, DOROTHY SABLAN and  
STANLEY TORRES,**

**ORDER DENYING MOTION TO  
QUASH PENAL SUMMONS AND  
INFORMATION**

Defendants.

THIS MATTER was last before the Court on May 10, 2004, on Defendants’ motion to quash the penal summons and information. Appearing were Robert Torres on behalf of Stanley Torres, Edward Arriola on behalf of Frank S. Ada, Joseph Arriola on behalf of Dorothy Sablan, and Clyde Lemons and David Hutton on behalf of the Commonwealth. At the conclusion of the hearing the Court ordered the parties to submit supplemental information and pleadings. Having reviewed these, and having carefully considered the pleadings and the arguments of counsel, the Court is prepared to rule.

Defendants are charged with numerous crimes involving theft, misconduct in public office, and illegal use of public resources. They now seek dismissal of the charging instrument, the information, based on an alleged violation of the Defendants’ rights under Article III, Section 11 of the Commonwealth Constitution. That section provides, in pertinent part, that, “[t]he Attorney General shall be responsible for . . . prosecuting violations of Commonwealth law.” N.M.I. Const. art. III, § 11. Defendants argue that this section is violated when an information, penal summons,

1 and related documents do not bear at least the name of the attorney general. Because the attorney  
2 general is the sole person charged with the power to prosecute criminal cases, they argue, all  
3 prosecutions must be brought in the attorney general's name. In addition, Defendants point to  
4 Commonwealth Rule of Criminal Procedure 7, which provides in pertinent part that each  
5 information "shall be signed by the attorney for the government." Com. R. Crim. P. 7(c). They  
6 argue that this rule requires the signer of an information to at least cite the authority of the attorney  
7 general and may require the attorney general's own signature. Defendants claim that the failure to  
8 include the name and/or signature of the attorney general must mean that either the attorney general  
9 did not sanction the information or that there is no attorney general.

10 The Commonwealth responds by arguing that neither the name, nor the signature of the  
11 attorney general, is required by either the constitution or court rules. As to the former, the  
12 Commonwealth argues that the attorney general may delegate the power to institute criminal  
13 prosecutions to others in the office, and that such a delegation has already occurred. As to the latter,  
14 the Commonwealth argues that the "attorney for the government" mentioned in Com. R. Crim. Pro.  
15 7(c) can be any attorney who has authority delegated from the attorney general. In sum, according  
16 to the Commonwealth, failure to name the attorney general is not fatal to an information.

17 The Court must agree with the Commonwealth. While there is no question that the attorney  
18 general is designated by our Constitution as the official empowered to bring criminal prosecution,  
19 there is also no question that the attorney general may delegate a portion of that power to others.  
20 That delegation may include the right and power to produce, sign, and submit criminal informations.  
21 Furthermore, it is clear to the Court that Rule 7 requires only that a criminal information be signed  
22 by an attorney who has proper authority from the attorney general, not necessarily the attorney  
23 general personally. The Court must conclude that there is no right under our Constitution to have  
24 the attorney general named in an information or to have the signature of the attorney general  
25 attached.

26 That said, the Court believes that it is the better practice to attach the name of the attorney  
27 general. The Court notes that the Commonwealth has gone through a number of attorneys general  
28 and acting attorneys general in the past several years. Indeed, the Court recalls one recent

1 administration that never had a permanent attorney general, but rather a series of acting attorneys  
2 general. Therefore, it is understandable that criminal defendants might be confused as to who  
3 ultimately, is responsible for bringing the charges against them. Of course, in most cases, the  
4 identity of the attorney general is not an issue. However, where the identity of the attorney general  
5 is relevant to the defense, a defendant is entitled to know the identity of the attorney general under  
6 whose authority penal summons issue and informations are filed and to have this stated on the  
7 record. Therefore, in this case the Court HEREBY ORDERS the Commonwealth to amend the  
8 information to include the name of the attorney general from whom the signing attorney(s) claim  
9 authority. The Court strongly encourages the Commonwealth to include this information in all  
10 future submissions in criminal cases.

11 CONCLUSION

12 Defendants' motion to quash the penal summons and information must be and is DENIED.  
13 The Commonwealth is ORDERED to amend the information as described above.

14  
15 SO ORDERED this 25th day of May 2004.

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18 /s/  
JUAN T. LIZAMA, Associate Judge