

1 **FOR PUBLICATION**

2
3 **IN THE SUPERIOR COURT**
4 **OF THE**
5 **COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

6	COMMONWEALTH OF THE NORTHERN)	TRAFFIC CASE NO. 04-2741
7	MARIANA ISLANDS,)	TRAFFIC CASE NO. 03-4106
8	Plaintiff,)	
9	v.)	SENTENCE AND
10	MICHELINE WEST BREL,)	COMMITMENT ORDER
11	Defendant.)	
12)	

13
14 THIS MATTER came before the Court for Sentencing on December 9, 2004, at 9:00 a.m.
15 at the Commonwealth Superior Court on Saipan in Courtroom 223A. The Government was
16 represented by Assistant Attorney General, Grant D. Sanders. The Defendant appeared with her
17 counsel, Masood Karimipour, Chief Public Defender.

18 On August 31, 2004, the Court, pursuant to a Plea Agreement found the Defendant guilty
19 of Homicide by Vehicle as charged in violation of 9 CMC § 7110(a) and Driving While Under the
20 Influence of Alcohol as charged in violation of 9 CMC § 7105(a)(5).
21

22 **SENTENCE**

23 In deciding what sentence is most appropriate, I must attempt to protect society at large, deter
24 potential offenders, punish the convicted offender, and to rehabilitate her.

25 In trying to meet all these goals, a trial court is faced with no more difficult task than
26 imposing sentence. The heavy burden on the Court is a reflection of the importance of the sentence
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1 to the public interest. The selection of an appropriate sentence is as important to the administration
2 of justice as is the right to a fair determination of guilt.

3 In this case we have a young lady of 21 years who was previously convicted for Driving
4 While Under the Influence of Alcohol. In that previous case she was intoxicated, drove a vehicle,
5 crashed into another vehicle, and left the scene of the crash.
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7 She was convicted, served four days in jail, had 26 days suspended and was placed on
8 probation for one year. While on probation for that case, she violated one of her probation conditions
9 by consuming alcohol beverages. While intoxicated, she drove a vehicle, and hit and killed another
10 human being. Defendant did not stop to check on or render assistance to the victim. Instead, she
11 chose to flee the scene of the accident once again. She did, however, turn herself in sometime later.
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13 As a result of her conduct, Defendant has deprived the victim's family of a father, husband,
14 son, emotional support, and has brought upon the victim's family financial hardship. She has also
15 deprived the victim's wife and son of companionship and the victim's father and son of medical
16 treatments and education.
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18 Although Defendant received a sentence for her previous crime, the sentence was not
19 sufficient deterrence to prevent her from once again violating the law. Indeed, she violated her
20 probation, only this time her actions were responsible for the loss of one life and have devastating
21 repercussions to the victim's loved ones.
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23 Unfortunately, there are about 47 people today and everyday, that is one every 30 minutes
24 of each and every day in the United States who no longer have that great and special gift of life that
25 each of us now have because they were killed as a result of an alcoholic related traffic accident. In
26 addition to those fatalities, there is one non-fatal injury every two minutes from alcohol related
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1 traffic accidents. It is also unfortunate that our small community is adding alcohol related deaths and
2 injuries to those statistics.

3 We need people to start thinking about these deaths and injuries and realize that they will go
4 to jail and lose their liberty for an extended period of time if convicted in this Court for a Driving
5 While Under the Influence of Alcohol offense. The jail time is also in addition to the fines, loss of
6 driving privileges, alcoholic information class to attend and the public humiliation of a criminal
7 conviction. There simply cannot be the slightest tolerance to irresponsible drinking and driving
8 which add to the given statistics mentioned. The proverbial message to the community must be sent,
9 and as loudly and frequently as possible.
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12 The Court has reviewed and acknowledges the several letters and statements from family and
13 friends of Defendant and the sentencing memorandum presented by defense counsel. The Court has
14 also considered the testimony of the witnesses. The Court concludes from the said testimony,
15 statements and documents submitted on behalf of Defendant that she has been on a positive road
16 toward rehabilitation and will most likely continue on that road. The Court also notes Defendant's
17 sincere regrets and acceptance of responsibility for the harm done to the victim and his family. These
18 facts and the support of family and friends and the legal arguments made by her counsel have been
19 considered and these facts should be very important down the road when she applies for parole.
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21 For the Court, however, rehabilitation is only one of the factors that a Court must consider
22 in sentencing, because sentencing is not really about what is good for the Defendant, but rather what
23 is best for the community in the sense that such criminal homicides against the people of our
24 community be deterred from occurring. Also a factor is society's demand for retribution for the
25 wrongful act, which adds to the deterrent factor. And we cannot forget the victim's family and the
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1 victim himself.

2 The crime of homicide by vehicle carries a jail term maximum of 10 years and a minimum
3 of 90 days, while Driving While Under the Influence of Alcohol second offense carries a minimum
4 jail sentence of 30 days and a maximum jail sentence of up to one year.

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6 The plea agreement provides for a 10-year sentence all suspended except up to a 4-year jail
7 term. The Court may also revoke probation in the previous case and exercise it's discretion in
8 applying any sentence thereunder.

9 In view of the foregoing observations, and notwithstanding the Court's consideration of the
10 pleas for leniency by family and friends and the defense counsel's argument for the Court's exercise
11 of compassion, and in particular, Defendant's sincere statement of remorse and acceptance of
12 responsibility for her actions, the Court believes that this is a case where the best interests of justice
13 and of this society will be best served by imposing a jail term that the Court believes will have a
14 deterrent effect in the life of Defendant upon her release, and more important, on other potential
15 offenders, and will serve as the retribution that society demands.

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17 Public perception is an integral part of sentencing convicted criminals. This is especially true
18 at this particular time and mood of society with the Governor's Proclamation a few days ago, as well
19 as the National Highway Safety 3D Program administered by the Department of Public Safety, both
20 declaring a campaign against Driving While Under the Influence of Alcohol. The message and
21 mandate are clear: to get tougher and tougher with Driving While Under the Influence of Alcohol
22 offenders because the alcohol related fatalities and injuries are taking their toll on our small
23 community and cannot be tolerated.

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25
26 However, the best interests of the community must also recognize what this Court has seen
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1 to be a Defendant who delivered a most articulate, sincere and persuasive elocution at this
2 sentencing, expressing in detail the terrible consequences of her acts, her sincere remorse and
3 acceptance of responsibility and her desire to work and make payments of the fines and restitution
4 to the family of the victim. The matters covered in Defendant's elocution were corroborated by the
5 evidence on record as to her potential to do positive things in her life and be a future compliment
6 to the community. Although the sentencing, as stated above cannot be only about Defendant's
7 rehabilitation, it is indeed a factor to consider when the rehabilitative possibilities are so strong as
8 they are here.
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10 The Court, therefore, believes that some slight mitigation of the maximum jail sentence
11 possible hereunder from the four years maximum down to three years is appropriate in this case.
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13 In view of the foregoing, the Court hereby sentences Defendant Micheline West Brel, as
14 follows:
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16 **For Homicide by Vehicle, 9 CMC § 7110(a):**

17 You are sentenced to serve a term of ten (10) years imprisonment, all suspended except three
18 (3) years with credit for time served of sixty-one (61) days. Although the Court does not believe that
19 it has authority to order a work release program, it being a function of the Executive Branch, the
20 Court is making its recommendation that it will be in the best interests of justice that the Department
21 of Corrections (DOC) allow Defendant to be admitted to work release since she still has a job and
22 she can begin making restitution payments to the victim's family which are badly needed, as well
23 as the fines and payments to the Court.
24

25 You shall pay a \$1,000.00 fine for the crime of Homicide by Vehicle at a minimum rate of
26 \$50.00 per month, effective 30 days after her release from DOC or upon being allowed in a work
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1 release program.

2 **For Driving While Under the Influence of Alcohol (second offense), 9 CMC §**
3 **7105(a)(5):**

4 You are hereby sentenced to a term of one year imprisonment and a \$1,000.00 fine and
5 suspension of driver's license for one year. All sentences with respect to the jail time to be served
6 shall be concurrent.

7 This sentence is subject to the following terms and conditions:

- 8
- 9 a. That Defendant will be on supervised probation for the remainder of the suspended
10 sentence, under the direction and supervision of the Office of Adult Probation.
11 Defendant will observe all directives imposed by the Office of Adult Probation;
- 12 b. The Court believes that you need to be reminded in a special way of exactly what the
13 crime you committed means to society. Therefore, Defendant shall perform two
14 hundred (200) hours of community service at a rate to be determined by her
15 probation officer based on the duration of her suspended sentence. Such community
16 service shall be directed by the probation office and shall be mainly comprised of
17 delivering public lectures to the community and in particular to school students at
18 various schools and classes. The lectures at schools and other community groups to
19 be identified by probation and under probation office direction, shall have Defendant
20 describe the crimes she committed, express her remorse for her criminal conduct and
21 articulate to the students in attendance how her convictions and sentence have
22 affected her life and future plans;
- 23 c. That Defendant be evaluated at the Community Guidance Center (CGC) to determine
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1 if she needs counseling/treatment and comply with any recommendations by CGC
2 and complete her treatment in Traffic Case No. 03-4106;

3 d. That Defendant shall refrain from alcohol consumption for the duration of her
4 suspended sentence;

5 e. That Defendant shall comply with any random testing scheduled by her probation
6 officer;

7 f. That Defendant shall write a letter of apology to the victim's family, to be delivered
8 through the Office Adult Probation, within thirty (30) days from the date of this
9 order. The letter shall contain a minimum fifty (50) words;

10 g. That the Defendant pays restitution to the victim's family for any expenses incurred
11 by said family relevant to the instant case (Traffic Case No. 04-2741). The office of
12 the attorney general shall file the amount of restitution in the court and provide a
13 copy to Defendant's counsel within 30 days of sentencing. Defendant will have ten
14 days to file any opposition. Upon such filing, the Court will set a hearing on the
15 matter. Any restitution order or procedure shall be terminated if and when a civil
16 judgment arising from the death of the victim is rendered by the Court against
17 Defendant;

18 h. That Defendant shall seek and maintain full-time employment during probation;

19 i. That Defendant shall pay an assessment fee of one hundred (\$100.00) dollars as
20 required by 6 CMC § 4119(a)(3)(A);

21 j. That Defendant shall pay an annual probation service fee of one hundred (\$100.00)
22 dollars pursuant to 6 CMC § 4113(g), at a minimum rate of fifty (\$50.00) dollars per
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1 month effective 30 days after her release from the Department of Corrections or
2 discharge from parole or upon being allowed in a work release program;

3 k. That Defendant shall keep all scheduled appointments with her probation officer; and

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5 l. That Defendant shall obey all criminal laws of the Commonwealth and of the United
6 States, except that minor traffic offenses shall not constitute a violation of this
7 condition.

8 With respect to Traffic Case No. 03-4106, the Government's motion to revoke probation is
9 hereby granted and the Court sentences Defendant in that case to serve the remainder of her 26-day
10 sentence, which will run concurrent with the above stated sentences.

11
12 The Defendant has the right to appeal this sentence within thirty (30) days from the date of
13 entry of this order.

14
15 **ENTERED** this 10th day of December 2004.

16
17 /s/
18 DAVID A. WISEMAN, Associate Judge

19 *NOTE: Any Inconsistency Between this Written Order and the Oral Pronouncement of Sentence in*
20 *Open Court Will be Resolved in Favor of this Written Order. Therefore, Counsel Must Move the*
21 *Court for a Correction of Any Discrepancy or it Shall be Deemed Waived.*