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**FOR PUBLICATION**

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

**COMMONWEALTH OF THE NORTHERN  
MARIANA ISLANDS,**  
  
**Plaintiff,**  
  
**v.**  
  
**PAUL FORUW TORWAN,**  
  
**Defendant.**

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**CRIMINAL CASE NO. 00-0412-CR  
  
ORDER GRANTING  
DEFENDANT'S APPLICATION FOR  
ORDER VACATING JUDGMENT.**

**DEFENDANT** Paul Foruw Torwan was originally charged with the crime of Riot. At a change of plea hearing held on February 20, 2001, Defendant was advised of his constitutional rights, which he waived, and entered in a plea of guilty, which the Court accepted. Defendant was adjudicated guilty of the offense of Riot, and was sentenced to six months imprisonment, all of which would be suspended if Defendant met six conditions. These conditions included: 1) six months supervised probation; 2) paying a \$100 fine; 3) 20 hours of Community Work Service; 4) paying court assessments of \$25; 5) paying a Probation Service fee of \$30; and 6) the Defendant must obey all CNMI, Federal, and State laws.

Defendant now seeks an order from this Court vacating the judgment of conviction. Defendant relies on 6 CMC § 4113(d) for the proposition that, if the court has not revoked the order of probation and pronounced sentence, the defendant shall be discharged by the court at the end of the term of probation. Defendant also asserts that if the defendant is discharged without imposition of sentence, the court shall be required to vacate the judgment of conviction. 6 CMC § 4113(e).

In this case, a review of the files of the Office of Adult Probation reveals that Defendant

1 failed to comply with two of the six conditions of his probation. Specifically, Defendant failed to  
2 make any payment toward the \$100 fine imposed by the Court, and Defendant did not perform any  
3 community service.<sup>1</sup>

4 The statute is clear: if the Criminal Division of the Attorney General's Office, through the  
5 Office of Adult Probation, wanted to act to revoke the Defendant's probation for failure to comply  
6 with its terms, it should have done so during the term when it had jurisdiction to do so. Here, no  
7 action was taken. While the Court is reluctant to grant an application for an order vacating judgment  
8 when any defendant has failed to comply with all of the terms of his probation, the Court believes  
9 that the time for alternative actions has passed.<sup>2</sup>

### 10 CONCLUSION

11 Although Defendant failed to comply with all the terms of his probation, no action was ever  
12 taken to revoke his probation, and the term of his probation has expired. Therefore, Defendant's  
13 Application for Order Vacating Judgment Pursuant to 6 CMC § 4113 is **GRANTED**.

14  
15 **SO ORDERED this 13th day of May 2005.**

16  
17 /s/  
18 ROBERT C. NARAJA,  
19 Presiding Judge

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25 <sup>1</sup> Defendant was detained by CNMI Probation Officer Juan R. Aguon to perform community service at the  
26 Superior Court's Marshall Office on April 11, 2001, but failed to show up on that date. He was also conducted by  
Officer Camacho to perform community service on June 26, 2001, but again failed to show up.

27 <sup>2</sup> Cf this court's decision in *Commonwealth v. Rebedulla*, Crim. No. 01-0016 (N.M.I. Super. Ct. May 13, 2005)  
28 ( Order Denying Defendant's Application for Order Vacating Conviction), where the Office of Adult Probation was  
prevented from taking any effective action revoking defendant's probation, as defendant had already been deported, and  
defendant failed to perform *any* of the terms of his probation even prior to deportation.