

1 **FOR PUBLICATION**

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

5 COMMONWEALTH OF THE )  
6 NORTHERN MARIANA ISLANDS ) CRIMINAL CASE NO. 10-0143  
7 )  
8 Plaintiff, )  
9 vs. )  
10 ) **SENTENCING ORDER**  
11 BELINDA OMENGGAR, )  
12 )  
13 Defendant. )  
14 )  
15 )

16 **THIS MATTER** came on for sentencing on November 20, 2012, at 1:30 p.m. in  
17 Courtroom 205A. The Commonwealth was represented by Shellie Neal, Assistant  
18 Attorney General. The defendant, Belinda Omengkar, was present and represented by  
19 Stephen Nutting.

20 On September 11, 2012, the defendant pled guilty to two counts of Trafficking of  
21 a Controlled Substance, in violation of 6 CMC § 2141(a)(1), made punishable by  
22 6 CMC § 2141(b)(1) and 6 CMC § 2150(a)(4).

23 The Legislature has the power to fix the appropriate sentence for any crime within  
24 the Commonwealth of the Northern Mariana Islands. The Legislature usually directs the  
25 Court to consider the relevant mitigating and aggravating circumstances of a crime when  
26 selecting the appropriate punishment. This system allows the Court to fashion a sentence  
27 for each particular defendant that takes into account the crime, the victims, the potential  
28 for rehabilitation, and the best interests of the community. In this case the Court would  
29 normally consider that the defendant is a first time offender, possessed a small amount of  
30 methamphetamine, and has assisted the authorities with the apprehension of others  
31 involved in drug trafficking. Yet, 6 CMC § 2141(b)(1) requires that all defendants be  
32 imprisoned for 25 years for each count of trafficking regardless of any mitigating or  
33 aggravating circumstances of the crime. Therefore, if the defendant in this case had used  
34 a gun, sold drugs near a school, been caught with 100 tons of methamphetamine, and  
35 refused to cooperate with authorities, then she would still receive a sentence of 25 years

1 for each count of trafficking. The Court implores the Legislature to revisit  
2 6 CMC § 2141(b)(1).

3 The Legislature has previously found that “the purposes of probation are to  
4 provide guidance in future conduct to those persons who have been convicted of crimes,  
5 to promote their rehabilitation, and to provide restitution to their victims pursuant to  
6 Article I, § 11 of the Commonwealth Constitution.” PL 15-46 § 2. However, if the Court  
7 were to impose the mandatory sentence in this case, then the defendant would remain in  
8 prison until the year 2062 when she will be 90 years old. After 50 years in prison there  
9 will be no opportunity for guidance, rehabilitation, or for the defendant to provide  
10 restitution to the community. Furthermore, the cost to the Commonwealth of imprisoning  
11 the defendant over the next half century will be in excess of 1.5 million dollars.

12 The Court finds that trafficking crystal methamphetamine, even a small amount as  
13 in this case, is a serious offense. If 6 CMC § 2141(b)(1) read “shall be sentenced for a  
14 first offense to a term of imprisonment for *not more* than 25 years,” the Court would  
15 sentence the Defendant to two years in prison; a stiffer sentence than under the federal  
16 sentencing guidelines. However, the statute currently reads, “shall be sentenced for a first  
17 offense to a term of imprisonment for *not less* than 25 years . . . .” If the Court wishes to  
18 incarcerate the defendant it must be for 25 years or more; it cannot be for two years, five  
19 years, ten years, or even 24 years. The Court is limited to sentencing the defendant to  
20 serve 25 years of imprisonment for each count of trafficking or no imprisonment at all.

21 In the interests of justice, the Court declines to sentence the defendant to 50 years  
22 of imprisonment without the possibility of parole. Accordingly, the defendant is ordered  
23 to pay a fine of \$10,000 for Trafficking of a Controlled Substance as charged in Count I;  
24 and \$10,000 for Trafficking of a Controlled Substance as charged in Count III. 6 CMC  
25 § 2141(b)(1) states that “the term of imprisonment shall not be subject to suspension,  
26 probation or parole. . . .” The Court interprets this statute to imply that the fine and  
27 payment thereof can be a term of probation. Accordingly, the defendant is placed on  
28 probation under the supervision of the Office of Adult Probation for a period of ten years.

29 Beginning on March 1, 2013, the defendant is to pay a sum of \$166.66 per month  
30 to the Office of Adult Probation for payment of the fine. The payment is due on or before  
31 the first of every month and shall continue until the entire amount of \$20,000 is

1 paid. Should the defendant miss a payment or be late for a payment, the Office of Adult  
2 Probation and the Office of the Attorney General are ordered to bring an action for  
3 criminal contempt of court for each late or missed payment. Should Defendant be found  
4 in contempt of court, she will be punished by a sentence of six months in jail for each and  
5 every contempt proceeding. This could be a harsh sentence if Defendant misses multiple  
6 payments, but the monthly payment is reasonable and it is far better than a 50 year  
7 sentence.

8  
9 **IT IS SO ORDERED** this 30th day of November, 2012.

10  
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12 \_\_\_\_\_  
13 /s/  
14 KENNETH L. GOVENDO  
Associate Judge