

1 **FOR PUBLICATION**

CFR  
911  
11/11/13

2013 MAR 13 PM 2:05

*frb*

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

7 COMMONWEALTH OF THE NORTHERN )  
8 MARIANA ISLANDS, )  
9 Plaintiff, )  
10 vs. )  
11 ROY ROGER AYUYU KAIPAT, ET. AL., )  
12 D.O.B. 04/23/1980 )  
13 Defendants. )

**CRIMINAL CASE NO. 12-0127(A)**  
**DPS CASE NO. 12-005283**

**STATEMENT**  
**FOR**  
**ORDER OF DISMISSAL**  
**AS TO DEFENDANT**  
**ROY ROGER AYUYU KAIPAT**

14 This matter was set for trial on March 11, 2013 at 9:00 a.m.. Sometime after 8:00 a.m. on  
15 the same day, the parties requested an in-chamber conference which the Court granted for  
16 approximately 8:40 a.m. At the chamber's conference, the Government stated that it could not  
17 prosecute this case as it does not believe that they could meet the standard of proof beyond a  
18 reasonable doubt, in view of their recent investigation of potential witnesses.

19 The Court then proceeded to the courtroom with counsel, dismissed the jurors with apologies,  
20 and then the Government counsel placed on the record their request for dismissal and the said  
21 reasons for it. The Court granted the motion and expressed its disturbance and concern in dismissing  
22 the matter 15 minutes before the trial.

23 **DISCUSSION**

24 The foregoing events leaves the Court very disturbed, and therefore, it feels compelled to  
25 publicize this matter, expressing the Court's major concerns in the hope that such an untimely and  
26 unfortunate event will be deterred from any reoccurrence.

27 A jury trial, such as the one in this matter, with jurors sitting in the courtroom, waiting for  
28 the juror selection and the trial to begin, has been preceded by the expenditure of time, resources,

1 funds, and many other preparatory functions as detailed below:

2         At the pretrial conference on February 21, 2013, which was this Court's deadline for the  
3 parties to inform the Court that the parties were ready to proceed to trial and that all pretrial matters  
4 have been attended to, the parties did so. The Court was not informed or noticed with anything about  
5 this case from either party during the time subsequent to said conference that there were any  
6 problems in this case going forward, until the said message received from the parties after 8 a.m. on  
7 the day of the trial on March 11, 2013.

8         The Court, after the pretrial conference, wherein it added a courtesy of two more working  
9 days for any non trial disposition, informed the Court staff to start issuing the jury summons. This  
10 commenced with the Clerk's preparing approximately 215 juror summonses for the Marshals to  
11 deliver. It takes 2 out of our 7 Court Marshals to start locating the potential jurors and serve them  
12 with their summons over a period of 10 or more days at a substantial cost. During that entire time,  
13 the Court's security was compromised by not having its full compliment of Marshals.

14         The potential jurors who were actually served, for the most part, all had to make special  
15 arrangements to appear in Court. The Judge and some of the Court staff had to spend time to prepare  
16 over the weekend prior to the trial. Many of the jurors sitting in the courtroom on March 11, 2013,  
17 I know from past experience, in all likelihood, had problems with transportation to the Court; special  
18 arrangements had to be made with their jobs, had problems finding babysitters, problems with  
19 dropping off and picking up kids from school; had to find someone to take care of sick or elderly  
20 family members; had to cancel other personal appointments, and a variety of other personal daily life  
21 that each one of us have. And then 10 minutes before trial time and after 30 minutes to one hour of  
22 sitting or waiting in Court, the jurors are told that we do not need them and they can leave the  
23 courtroom and are dismissed.

24         The worries, stress, and anxiety of the jurors being selected as a juror can only be imagined.

25         The cost, time, and effort that went into this process could have been avoided and used for  
26 other more productive areas. For whatever reasons the Government decided were present that  
27 prevented them from going forward with the jury trial, could have, with the slightest degree of  
28 diligence, been detected long before an hour before trial. The Court can not and shall not tolerate

1 such a turn of events in any future cases and all attorneys practicing before this Court, regardless of  
2 the agency they work for, are placed on notice that this Court will assess the individual counsel and  
3 order them to pay from their own funds the costs incurred in preparing for a criminal jury trial under  
4 similar circumstances.

5 In addition, the Court shall in the future consider disciplinary actions.

6  
7 **SO ORDERED** this 13 day of March, 2013.

8   
9 \_\_\_\_\_  
10 **DAVID A. WISEMAN**  
11 Associate Judge  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28