

2015 FEB 11 PM 4:12

*km*

BY DEPT. OF CORRECTIONS

1 **FOR PUBLICATION**

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

6 **COMMONWEALTH OF THE**  
7 **NORTHERN MARIANA ISLANDS,**

8 **Plaintiff,**

9 **v.**

10 **ANTONIO M. ATALIG,**

11 **Defendant.**

) **CRIMINAL CASE NO. 13-0083A**  
) **CRIMINAL CASE NO. 12-0132E**

) **ORDER DENYING DEFENDANT'S**  
) **MOTION FOR REDUCTION IN**  
) **SENTENCE**

12 **I. INTRODUCTION**

13  
14 THIS MATTER came before the Court on the Defendant's Motion for Reduction of Sentence on  
15 September 17, 2014, at 1:30 p.m. in Courtroom 223A. The Government was represented by Assistant  
16 Attorney General Margo Badawy. Defendant, Antonio M. Atalig, appeared under the custody of the  
17 Department of Corrections ("DOC") and was represented by his counsel, Robert Myers, Esq.

18 On September 22, 2014, the Court issued a Minute Order in this matter. Based on review of the  
19 filings, oral arguments, and applicable law, the Court tentatively denied Defendant's motion "pending a  
20 written decision that shall be issued by the Court."

21 The Court now issues a written decision and **DENIES** Defendant's Motion for Reduction of  
22 Sentence.

23 **II. BACKGROUND**

24 The Court provides a brief factual and procedural summary of the events preceding the filing of  
25 Defendant's motion.

**A. Criminal Case No. 12-0132E**

On January 18, 2013, Defendant pleaded guilty to two misdemeanor counts of Assault and Battery

1 (Domestic Violence). Defendant was sentenced to a total imprisonment term of one year, all suspended but  
2 forty days with credit for forty days already served. Defendant was further ordered to serve a three-year  
3 period of supervised probation.

4 **B. Criminal Case No. 13-0083A**

5 On November 22, 2013, less than a year from his conviction in Criminal Case No. 12-0132E,  
6 Defendant pleaded guilty to five misdemeanor counts, including: Assault and Battery (Domestic Violence),  
7 Disturbing the Peace (Domestic Violence), and Criminal Contempt.

8 Defendant was sentenced to a total imprisonment term of 24 months and 73 days.<sup>1</sup> The Court revoked  
9 Defendant's previous probation sentence, and Defendant was again ordered to serve a three-year period of  
10 supervised probation.

11 **C. Criminal Contempt**

12 On April 2, 2014, the Court found that Defendant was in contempt of court. And on April 15, 2015,  
13 the Court issued additional findings related to said violation.

14 The Court allowed Defendant to be twice released from his incarceration from his underlying  
15 sentence in Criminal Case No. 12-0132E. However, Defendant failed to report to DOC on February 14, 2014  
16 – Defendant's reporting day as ordered from the bench.

17 The Court investigated the matter and found that the reporting date in the Order submitted by  
18 Defendant was Friday 15, 2015, 1 year later than what was ordered from the bench. The Court issued a new  
19 order correcting the reporting date, and informed Defendant of the corrected date by telephone.

20 Defendant failed to report back to DOC on February 15, 2014 and the Court issued an arrest warrant  
21 on February 20, 2014. Fourteen days after the Court issued said arrest warrant, Defendant reported to DOC  
22

---

23 <sup>1</sup> The 73 days calculation comes from the Court's November 22, 2013 Judgment of Conviction and Commitment  
24 Order ("Nov. 22, 2013 Order"). Defendant had not served 325 days of the suspended sentence ordered in Criminal Case No.  
25 the full term of the remaining 325 days with credit for time served from March 14, 2013 to November 20, 2013. *Id.* The  
remaining period of incarceration is 73 days. *Id.*

1 on March 7, 2014.

2 The Court later found that the “erroneous” reporting date was the result of a deliberate fabrication  
3 by Defendant. The Court also found that Defendant’s excuses, such as receiving only two pages of the  
4 Court’s order, were not credible.

5 Accordingly, in the Court’s April 15, 2014 Sentence and Commitment Order on Contempt, the Court  
6 sentenced Defendant to an additional imprisonment term of six months without parole and a \$100 fine  
7 pursuant to 6 CMC § 3307. The Court ordered that the additional sentence be served consecutively with the  
8 sentenced imposed on Defendant pursuant to the Court’s November 22, 2013 Judgment and Conviction and  
9 Commitment Order issued in Criminal Case No. 13-0083A.

10 **D. Defendant’s Motion to Reduce Sentence**

11 Defendant now files a motion to reduce sentence alleging that Defendant maintained good behavior  
12 while incarcerated and on the basis that Defendant was sufficiently rehabilitated.

13 **III. DISCUSSION**

14 Defendant files a motion to reduce sentence under 6 CMC § 4114 and Rule 35(b) of Rules of  
15 Criminal Procedure. Def.’s Mot. to Reduce Sentence at 4-5. Both laws impose a relevant statutory time bar  
16 of 120 days. Government’s Opp’n at 3. Defendant concedes that his arguments are time-barred, but suggests  
17 that this Court should apply an exception to the statutory time limit under a newly-proposed construction  
18 of Rule 35(b)’s time-bar rules. Def.’s Reply at 5-6.

19 The Court is not persuaded by Defendant’s arguments. Accordingly, the Court denies Defendant’s  
20 motion on procedural grounds.

21 Even if the Court were to overlook the untimeliness of Defendant’s motion, the Court is unlikely to  
22 grant the requested relief. As the Court stated in its April 15, 2014 Sentence and Commitment Order on  
23 Contempt:

24 In view of the foregoing observations which highlight some of the contumacious conduct of  
25 Defendant in his dealings with the Court,[] the Court believes that this is the case where the  
best interests of justice and of this society may be best served by imposing the maximum jail

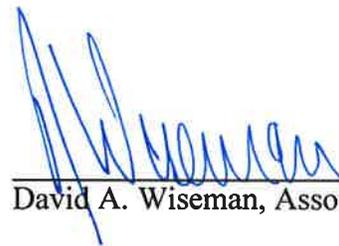
1 term that the Court believes may have a deterrent effect on the life of the Defendant upon his  
2 release, and on those potential offenders who don't take Court orders too seriously and think  
3 nothing of violating them, and will serve as the retribution that society demands.

4 Sentence and Commitment Order on Contempt at 7.

5 **CONCLUSION**

6 Based on the foregoing, the Court **DENIES** Defendant's Motion to Reduce Sentence.

7 **SO ORDERED** this 11 day of February, 2015.

8   
9  
10 David A. Wiseman, Associate Judge

