

2015 JUN 12 AM 10:38

1 **FOR PUBLICATION**

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

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

CRIMINAL CASE NO. 12-0143B

8 Plaintiff.)

ORDER DENYING COMMONWEALTH'S
MOTION TO MODIFY RESITUTION
ORDER

9 vs.)

10 **ALFONZO RAMON,**)

11 Defendant.)

12
13 **I. INTRODUCTION**

14 **THIS MATTER** came before the Court on June 9, 2015 at 1:30 p.m. in Courtroom
15 205A on the Commonwealth's Motion to Modify Restitution Order. Assistant Attorney
16 General Chester Hinds appeared on behalf of the Commonwealth of the Northern Mariana
17 Islands ("Commonwealth"). Chief Public Defender Doug Hartig appeared on behalf of
18 Defendant Alfonzo Ramon ("Defendant").

19 Based on the matters adduced at the hearing, the Court hereby **DENIES** the
20 Commonwealth's motion to modify its restitution order.

21
22 **II. BACKGROUND**

23 In May 2013, the Commonwealth and Defendant submitted a plea agreement. Pursuant
24 to the plea agreement, Defendant agreed to plead guilty to the offenses of Assault With a
25 Dangerous Weapon in violation of 6 CMC § 1204(a) and Aggravated Assault in violation of 6
26 CMC § 1203(a). The Commonwealth moved to have all other charges against Defendant
27 dismissed. The plea agreement also provided that Defendant pay restitution to the victim, Zaji
28 Zajradhara ("Zaji").

AGD
PDS
LKC

ENTERED

1 This Court entered a Judgment of Conviction and Order (“JCO”) against Defendant on
2 May 17, 2014, accepting the parties’ plea agreement. As a condition of his sentencing,
3 Defendant was ordered to pay restitution to Zaji. A restitution hearing was subsequently held
4 on April 15, 2015. A Restitution Order was thereby filed on May 6, 2015, ordering the
5 Defendant to pay Zaji the total amount of \$33,986.38 for medical expenses that Zaji incurred
6 while receiving treatment at the Commonwealth Health Center (“CHC”).

7 On May 12, 2015, the Commonwealth filed the instant motion seeking a modification
8 of the Court’s restitution order. The Commonwealth requested an order to have Zaji’s medical
9 bill paid directly to CHC instead. The Defendant filed an opposition on May 18, 2015, arguing
10 that CHC was not the direct victim of Defendant’s crimes.

11 12 III. DISCUSSION

13 While the Court acknowledges that it has the authority to modify part of Defendant’s
14 sentence when a motion is timely made, the Court is restrained from modifying its restitution
15 order when a plea agreement between the Commonwealth and Defendant has been previously
16 accepted. 6 CMC § 4105; see, e.g., *United States v. Bedonie*, 1996 U.S. App. LEXIS 14193
17 (9th Cir. 1996) (“If the court has already accepted the agreement, it should not reduce the
18 sentence unilaterally in such cases, but rather should withdraw its acceptance of the plea
19 agreement and permit the parties to renegotiate a more appropriate sentence or opt for trial.”).

20 Our Supreme Court has previously held that plea agreements are unilateral contracts.
21 *Commonwealth v. Camacho*, 2002 MP 21 ¶ 13; see *Commonwealth v. Hocog*, Crim. No. 14-
22 0027 (NMI Super. Ct. Dec. 22, 2014) (Order Affirming Drug Treatment Sentencing Provision
23 at 6). Accordingly, plea agreements become binding once a defendant accepts the terms of the
24 plea bargain by pleading guilty and upon approval by the Court. *Camacho*, 2002 MP 21 ¶ 14.
25 Thereafter, the plea agreement between the Commonwealth and Defendant constitutes a valid
26 contract and “the Court will not disrupt their contractual relationship as such.” *Hocog*, Crim.
27 No. 14-0027 at 7; see also *Commonwealth v. Hideo*, Crim. No. 02-0393B (NMI Super. Ct.
28 Sept. 22, 2014) (Order Den. Def.’s Mot. for Reconsideration of Sentence at 2) (“While no

1 bargain or agreement can divest the court of the sentencing discretion it inherently possesses, a
2 judge who accepted a plea bargain is bound to impose a sentence within the limits of that
3 bargain.”).

4 In the present matter, the Commonwealth offered to dismiss all other counts in the case
5 if Defendant agreed to plead guilty to two of his criminal charges. Defendant also agreed to
6 pay restitution to his victim, Zaji, as a condition of his sentence pursuant to the plea agreement
7 with the Commonwealth. Once this Court accepted the plea agreement between the
8 Commonwealth and Defendant, a valid contract was formed, severely limiting the Court’s
9 discretion to subsequently alter the negotiated condition of his sentence.

10 Although this Court is sympathetic to have victims, whether direct or indirect,
11 compensated for injuries caused by criminals, important policy considerations prevent us from
12 being amendable to the Commonwealth’s motion to have CHC compensated instead of Zaji. If
13 “[the trial court] could simply accept [a] plea agreement and then subsequently alter the
14 sentence imposed as part of the plea agreement . . . [parties have] a disincentive to negotiate an
15 agreement in the first place. The parties to a plea agreement need to be reasonably confident
16 that conditions that they negotiate are the ones that each side will receive.” *State v. Merydyk*,
17 754 N.W.2d 596, 605 (Minn. Ct. App. 2008). It is for this reason that this Court is restrained in
18 its ability to modify its previous sentencing judgment and order.

19 In considering the Court’s lack of authority to later modify a sentencing order that was
20 based on a plea agreement, the Court informs the Commonwealth that, in the future, if it has a
21 substitute victim in mind, the Commonwealth should include such condition in the plea
22 agreement. The Court refuses to insert or substitute an additional victim into the parties’ plea
23 agreement when CHC was not the intended recipient of restitution.

24 25 **IV. CONCLUSION**

26 Based on the foregoing reasons, the Court **DENIES** the Commonwealth’s motion to
27 modify its restitution order.

1 *th*
IT IS SO ORDERED this 11 day of June 2015.

2
3
4 

5 KENNETH L. GOVENDO
6 Associate Judge

7 **NOTE:** Any Inconsistency between this written Order and the oral pronouncement of sentence in open court will be
8 resolved in favor of this written Order. Therefore, Counsel must move the Court for a correction of any
9 discrepancies within fifteen (15) days from the date of the entry of this Order. or it shall be deemed waived.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28