



By order of the Court, Judge Joseph N. Camacho

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FOR PUBLICATION

CLERK OF COURT
SUPERIOR COURT
FILED

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BY:

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

COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS,

Plaintiff,

v.

MANEX NIMWES,

Defendant.

) Traffic Case No. 17-00451
) Traffic Case No. 17-02425
)
) ORDER DENYING MOTION TO
) TRANSFER CASES TO JUVENILE
) COURT OF SEVENTEEN-YEAR
) OLD DEFENDANT PURSUANT TO
) 6 CMC § 5121(d)(2) AS THE
) TRAFFIC COURT HAS
) JURISDICTION OVER THE
) TRAFFIC VIOLATIONS
)
)

I. INTRODUCTION

THIS MATTER came before the Court for a Motion Hearing on Wednesday, February 13, 2019 at 9:00 a.m. at the Marianas Business Plaza on Defendant Manex Nimwes’ Motion to Transfer to Juvenile Court (“Nimwes’ Motion”). Assistant Attorney General Jonathan Glass, Jr. represented the Commonwealth. Assistant Public Defender Heather Zona represented the Defendant, who also appeared.

II. STATEMENT OF FACTS

Manex Nimwes (“Nimwes”) was born on November 12, 1999.

On January 30, 2017, the Commonwealth charged seventeen year old Nimwes with violating 9 CMC § 5205(b)(3) (failing to “stop before entering the intersection and remain stopped until green is shown”), 9 CMC § 2201(a),¹ 9 CMC § 7104(a) (reckless driving), 9

¹ Title 9 of the Commonwealth Code also referred to as the Traffic Code was amended by PL 19-58, § 4, renaming 9 CMC § 2201(a) to 9 CMC § 2202(a). The Court refrains from making a finding of whether the

1 CMC § 7105(a)(1) (“[h]aving a Blood Alcohol Concentration (BAC) of 0.08 percent or
2 more as measured by a breath or blood test”), 9 CMC § 7105(a)(2) (under the influence of
3 alcohol), and 9 CMC § 7105(a)(5) (“[h]aving a Blood Alcohol Concentration (BAC) of
4 0.01 percent or more for a person under the age of 21”). (“Traffic Case TR 17-051”).

5 On June 27, 2017, in a separate incident, the Commonwealth charged seventeen
6 year old Nimwes with violating 9 CMC § 5304(a) (“A vehicle shall be operated as nearly
7 as practical entirely within a single lane and may not be moved from the lane until the
8 operator has first ascertained that the movement can be made with safety”), 9 CMC §
9 2202(a) (operating a vehicle without a license), 9 CMC § 7104(a) (reckless driving), 9
10 CMC § 7105(a)(1) (“[h]aving a Blood Alcohol Concentration (BAC) of 0.08 percent or
11 more as measured by a breath or blood test”), and 9 CMC § 7105(a)(5) (“[h]aving a Blood
12 Alcohol Concentration (BAC) of 0.01 percent or more for a person under the age of 21”).
13 (“Traffic Case TR 17-2425”).
14

15 On July 27, 2017, during the arraignment of Nimwes for Traffic Case TR 17-2425,
16 the Court granted the Commonwealth’s oral motion to dismiss the 9 CMC § 7105(a)(5)
17 charge.
18

19 On February 13, 2019, during the Motion Hearing for Traffic Case TR 17-0451, the
20 Court granted the Commonwealth’s oral motion to dismiss the 9 CMC § 7105(a)(5)
21 charge.
22

23 III. DISCUSSION

24 The Commonwealth Juvenile Justice Act states that:

25 The Superior Court shall have exclusive, original jurisdiction over any
26 juvenile and over any adult who was a juvenile at the time of any act,
omission or status offense: [...]

police officer intended to charge Nimwes with the charge now listed as 9 CMC § 2202(a) because the issue is not before the Court.

1 (d) This chapter shall not apply to juvenile violators of non-felony-level
2 traffic statutes, except: [...]

3 (1) a juvenile violator under the age of sixteen years at the time of such
4 violation may, at the discretion of the court, be treated under the
5 provisions of this chapter; and

6 (2) a juvenile charged with violation of 9 CMC § 7105(a)(5).

7 6 CMC § 5121(d)(2). The Commonwealth Code defines “Juvenile” as “any person less than
8 eighteen years of age or who was less than eighteen years of age at the time of any act,
9 commission or status bringing the person within the purview of this chapter.” 6 CMC §
10 5101(m).

11 Nimwes is a Juvenile as defined by the Commonwealth Code because Nimwes was
12 under the age of eighteen at the time of the alleged offenses.

13 Under the plain language of 6 CMC § 5121(d)(2), the Juvenile Court had exclusive,
14 original jurisdiction over Nimwes prior to the dismissal of the 9 CMC § 7105(a)(5) charges.
15 Therefore, had the Commonwealth not dismissed the 9 CMC § 7105(a)(5) charges, the
16 Court would be required by law to grant Nimwes’ Motion and transfer his two cases to the
17 Juvenile Court.² See *Oden v. N. Marianas Coll.*, 2003 MP 13 ¶ 10 (stating that statutory
18 interpretation should begin with the plain language of the statute and courts should only look
19 beyond a statute’s plain wording if the statute is unclear).³

20 However, by dismissing the 9 CMC § 7105(a)(5) charges, the Commonwealth
21 divested the Juvenile Court of jurisdiction to adjudicate the alleged violations. Therefore,
22 Nimwes’ Motion to transfer his cases to the Juvenile Court is moot.

23 The Office of the Attorney General representing the Commonwealth has the
24 authority to dismiss traffic offenses. NMI R. CRIM. P. 48(a) (“The attorney for the
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26 ² The Parties did not brief or argue whether all of the charges or only the 9 CMC § 7105(a)(5) charges would
be transferred to the Juvenile Court.

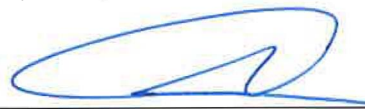
³ The Commonwealth also argues that Nimwes cases should remain in traffic court regardless of 6 CMC §
5121(d)(2) because of alleged historical practices by the CNMI Superior Court to keep juveniles charged with
9 CMC § 7105(a)(5) in traffic court if defendants were above the age of sixteen (16).

1 government may by leave of court file a dismissal of an information or complaint and the
2 prosecution shall thereupon terminate. Such a dismissal may be filed during the trial without
3 the consent of the defendant.”).⁴ Such a dismissal could divest a court of jurisdiction. *See*
4 *Govendo v. Micronesian Garment Mfg.*, 2 NMI 270, 281 (1991) (finding that “[c]ourts lack
5 jurisdiction to decide moot cases”). Here, of all of the offenses charged against Defendant
6 Nimwes, only 9 CMC § 7105(a)(5) gave the Juvenile Court exclusive, original jurisdiction
7 over Nimwes. Because Nimwes was above the age of sixteen (16) at the time of the alleged
8 violations, and is not at this time charged with a 9 CMC § 7105(a)(5) violation, the Juvenile
9 Court lacks jurisdiction over Nimwes. Therefore, the Juvenile Court lacks the authority to
10 adjudicate the remaining charges in Traffic Cases TR 17-0451 and TR 17-2425. NMI R.
11 Civ. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter jurisdiction,
12 the court must dismiss the action.”).
13

14 IV. CONCLUSION

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16 For the reasons stated above, Defendant Nimwes’ Traffic Cases TR 17-0551 and TR
17 17-2425 are properly before the CNMI Traffic Court. Nimwes’ Motion to Transfer to
18 Juvenile Court is therefore **DENIED**.

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20 **IT IS SO ORDERED** this 5th day of April, 2019.

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23 **JOSEPH N. CAMACHO**
24 Associate Judge

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⁴ NMI R. TRAFF. 2 (“Other rules and laws which govern criminal procedure shall, insofar as they are applicable, implement the rules prescribed by these Rules.”).