

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

COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS,

Plaintiff,

vs.

PATRICK DOWAI,

Defendant.

] CRIMINAL CASE NO. 99-072D
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**ORDER GRANTING DEFENDANT'S
MOTION FOR DISQUALIFICATION
OF ASSOCIATE JUDGE JOHN A.
MANGLONA**

I. PROCEDURAL BACKGROUND

This matter came before the Court on April 14, 1999, in Courtroom 202 on Defendant's motion for disqualification of Associate Judge John A. Manglona. Assistant Attorneys General Aaron Williams and Marvin Williams appeared on behalf of the Commonwealth. Daniel C. Bowen, Esq., from the Office of the Public Defender, appeared on behalf of the Defendant, Patrick Dowai who was also present. The Court, having reviewed the memoranda, declarations, having heard and considered the arguments of counsel and being fully informed of the premises, now renders its written decision.

II. FACTS

On February 26, 1999, Defendant was charged with violating 6 CMC § 2141(a) and § 2142(a) by illegally possessing and intending to deliver a controlled substance. On March 8, 1999,

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Defendant, represented by Daniel C. Bowen, Esq. from the Public Defender's Office, appeared for [p. 2] arraignment before Presiding Judge Edward Manibusan. The government was represented by Assistant Attorney General Ramona V. Manglona. On March 18, 1999, Defendant appeared before the Court pursuant to Defendant's motion for a preliminary hearing. At the preliminary hearing Defendant was represented by Public Defender Daniel C. Bowen. The government was represented by Assistant Attorney General Marvin Williams. Based upon matters adduced at the hearing, Defendant's motion for a preliminary hearing and motion for discovery was denied by Presiding Judge Manibusan. After waiving the reading of the Information and advisement of his personal and constitutional rights, Defendant entered a plea of not guilty and requested a trial date. Presiding Judge Manibusan assigned the matter to Associate Judge Manglona, set the motions hearing for April 6, 1999 and a bench trial for May 3, 1999. On April 6, 1999, Defendant, through his attorney, moved to disqualify Associate Judge John A. Manglona pursuant to 1 CMC § 3308(a).

III. ISSUE

1. Whether a sitting judge, who is married to a criminal prosecutor employed by the government, should be disqualified from any criminal proceedings where the judge's spouse had initially appeared on behalf of the government for defendant's arraignment and where the case is now being handled by a prosecutor other than the judge's spouse?

IV. ANALYSIS

1 CMC § 3308(a) provides that "[a] justice or judge of the Commonwealth shall disqualify himself or herself in any proceeding in which his or her impartiality might reasonably be questioned." A judge shall also disqualify himself or herself if he or she, or his or her spouse or the spouse of such person: is a party to the proceeding, is acting as a lawyer in the proceeding, or is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding. 1 CMC § 3308(b)(5)(i)-(iii).

A basic canon of statutory construction is that statutory language must be given its plain meaning. *Nansay Micronesia Corp. v. Govendo*, 3 N.M.I. 12 (1992). If the meaning of a statute is clear, the Court will not construe it contrary to its plain meaning. *Office of the Attorney General*

v. [p. 3] *Deala*, 3 N.M.I. 110 (1992).

In claiming Judge Manglona's partiality, Defendant noted that prosecutor Manglona represented the government at Defendant's arraignment hearing. Her appearance on behalf of the government, even if only for an arraignment, clearly falls within the language of 1 CMC § 3308(b)(5)(i)-(iii). The Court, therefore, agrees with Defendant that Assistant Attorney General Ramona V. Manglona's brief involvement in the case is sufficient to raise a reasonable question about the judge's impartiality.

V. CONCLUSION

Prosecutor Manglona's appearance in the initial stages of the criminal proceedings provides a legally sufficient basis for the judge's disqualification. To hold otherwise would threaten the integrity and dignity of the judicial process as contemplated by the disqualification statute.

For the foregoing reasons, Defendant's motion for disqualification is **GRANTED**.

SO ORDERED this 19th day of April, 1999.

/s/ Virginia Sablan Onerheim
VIRGINIA SABLAN ONERHEIM
Associate Judge