

TRUST TERRITORY OF THE PACIFIC ISLANDS,
Plaintiff-Appellee

v.

RILEY ALBERTTAR, Defendant-Appellant

Criminal Appeal No. 62

Appellate Division of the High Court

Marshalls District

August 23, 1976

Appeal from conviction of two counts of involuntary manslaughter, one count of driving at an unsafe speed and one count of obstructing view of driver, and from refusal of trial court to grant stay of sentence. The Appellate Division of the High Court, Burnett, Chief Justice, held that information as a whole showed that there could be no doubt as to the “. . . unlawful act not amounting to a felony . . .” which was the basis for the involuntary manslaughter charges.

Criminal Law—Information—Sufficiency

Motion for stay of sentence of defendant convicted of two counts of involuntary manslaughter, one count of driving at an unsafe speed and one count of obstructing view of driver, on ground that counts of information charging involuntary manslaughter did not specify what acts, not amounting to a felony, were basis for such counts, would be denied where reading of the information as a whole showed there could be no doubt as to the “. . . unlawful act not amounting to a felony . . .” which was the basis for the involuntary manslaughter charges.

BURNETT, *Chief Justice*

Defendant was convicted, following trial on August 2, 4, 5, 1976, of 2 (two) counts of involuntary manslaughter, one count of driving at an unsafe speed, and one count of obstructing view of the driver. Sentence was imposed on August 5, 1976, and Notice of Appeal filed on August 6, 1976, together with application for stay of sentence, which was denied on the same day.

Defendant now moves for a stay order from the Appellate Division. The motion is undated.

I note first, that the notice of appeal is not in compliance with our rules, which require such notice to set forth "a concise statement of the grounds on which he appeals." R.C.P., Rule 21.

Counsel's memorandum, in support of the instant motion, makes clear that his objection throughout all proceedings has been to the language contained in the first two counts of the information, charging involuntary manslaughter, in that they did not specify what acts ". . . not amounting to a felony . . ." were the basis for such counts.

In support of the motion for stay Counsel cited cases from various U.S. jurisdictions, and asks that I not "dispose of my argument . . . by saying 'we are not so sophisticated in the Trust Territory.'" To give such a reason for deciding, whether one way or the other, would, of course, be completely improper.

Cases cited by counsel are clearly distinguishable. Here we are not concerned with an information or indictment which charges manslaughter in a single count. The information must be read as a whole. See Wharton's Criminal Procedure, Section 258, and cases cited. Reading the information in this matter as a whole, there can be no doubt as to the ". . . unlawful act not amounting to a felony . . ." which is the basis for the involuntary manslaughter charges.

I see no reason to disturb the trial court's denial of stay, and the motion is, therefore, Denied.